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Director's Decisions for California

Oil & Gas

1960-1965

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DOCKET FILES

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appeal to Sec
affirmed A-28431
9-19-62 (Sec)

DOCKET FILES

OIL AND GAS * 2 Acquired Lands

* 9 Lands Subject to Leasing

An oil and gas lease application for acquired land which is set apart for military purposes when the application is filed must be rejected as such land is not subject to leasing under the Mineral Leasing Act for Acquired Lands.

Jack Weldon Wood, BLM-A 037097 (Calif.) (January 18, 1960)

20

In reply refer to:

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

BLM-A 037097 (Calif.)
5.04g

January 18, 1960

Certified Mail
Return Receipt Requested

DECISION

Jack Weldon Wood	:	Oil and Gas

Decision Affirmed

Mr. Jack Weldon Wood has appealed from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, dated May 25, 1959, rejecting his above-noted noncompetitive oil and gas lease offer, filed April 15, 1954, because the Eleventh Naval District has reported that the lands are set aside for military purposes within the meaning of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913; 30 U.S.C., 1952 ed., Supp. V, secs. 351-359).

The appellant contends that he should be issued a lease for the lands because (1) the lands offer definite oil possibilities, which would be an asset to the United States in time of emergency, (2) drilling operations would not interfere with the activities of any Department of the United States, including the Department of Defense, (3) the Navy does not object to leasing the lands, and (4) drilling operations by the appellant will not interfere with the surface use of the lands within the naval base since they will be done from outside the exterior boundaries of the naval base.

The records show that the lands in the appellant's application, which are within the United States Naval Construction Battalion Center, Port Hueneme, Ventura County, California, have been set aside for naval purposes.

The Department has held that lands set apart for military or naval purposes are expressly excluded from the leasing provisions of the Mineral Leasing Act for Acquired Lands and the Department is not authorized to issue oil and gas leases on such lands (30 U.S.C., 1952 ed., sec. 352; 43 CFR 200.2). Donald M. Snow A-27464 (July 29, 1957).

Accordingly, the appellant's oil and gas lease offer was properly rejected, and the decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Jack Weldon Wood is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed From 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Jack Weldon Wood (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

appeal to Sec
affirmed A-28456
6-7-60

DOCKET FILES

LO(a)

OIL AND GAS * 12 Relinquishments

A lessee of an oil and gas lease who relinquishes his lease is not thereby disqualified from applying for a new lease of the same lands.

Duncan Miller, Los Angeles 0163603 (February 23, 1960)

In reply refer to:

Los Angeles 0163603
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

February 23, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated September 1, 1959, rejecting his above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1952 ed., Supp. V, sec. 226), because the lands are embraced in outstanding oil and gas lease Los Angeles 0163468.

The appellant contends that Los Angeles 0163468 was not a qualified offer since the applicant had had a prior lease for the identical lands, which he relinquished merely as a device to allow him to file a new monopolizing lease offer with the unlawful intent to secure a new lease for the same lands.

The records show that the appellant filed his oil and gas lease offer on March 18, 1959. Oil and gas lease offer Los Angeles 0163468 was filed by Mr. George R. Wickham on March 13, 1959, and a lease issued to Mr. Wickham effective October 1, 1959.

The Department has held that a lessee of an oil and gas lease who relinquishes his lease is not thereby disqualified from applying for a new lease of the same lands. Duncan Miller, A-27897, etc. (March 31, 1959).

Accordingly, the decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

If an appeal is taken by Mr. Miller, then the adverse party to be served is:

Mr. George R. Wickham
1861 W. Mountain Street
Glendale 1, California

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Mr. George R. Wickham (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

appeal to Sec.
Reversed & Remanded
A-28485 1-19-61

LA (Sec)

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing

It is within the discretion of the Secretary (or his delegate) to refuse to grant a sodium prospecting permit for exploration purposes where it is determined that such action would not be in the public interest. George E. Johnson, Los Angeles 0159161 (March 17,1960)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Los Angeles 0159161
5.04g

March 17, 1960

Certified Mail
Return Receipt Requested

DECISION

George E. Johnson : Sodium Prospecting Permit

Decision Affirmed

Mr. George E. Johnson has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, which rejected his above-identified sodium prospecting permit application submitted under the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 447; 30 U.S.C., 1958 ed., secs. 261-3), and regulations thereunder contained in 43 CFR 195.1-26 for the reason stated, that the lands applied for are situated within the boundary of the California-Arizona Maneuver Area and the Corps of Engineers, United States Army, has advised that this area contains unexploded ordnance which may be hazardous to life and property. The Manager held that the issuance of a sodium prospecting permit is not in the public interest.

The appellant contends the property is valuable for sodium production, that there is no visible indication on the surface of shells or explosives, and he offers to bear the expense of dedudding the area applied for.

In a letter dated August 26, 1958, from the Assistant Secretary of the Interior to the Secretary of the Army (file number 1906942), it is stated that before the Interior Department can assume full jurisdiction of the lands in the California-Arizona Maneuver Area, further efforts to decontaminate certain areas appear to be in order. These areas are shown in red on United States Army Corps of Engineers' Map, identified as "California-Arizona Maneuver Area Dedudding Program" drawing 16-13-01, dated October, 1951. All of the lands in the appellant's offer are in the contaminated areas. The Assistant Secretary of the Army in a letter dated January 15, 1959, indicates that the expense of further dedudding and inspection by the Army can only be undertaken where economically justified. There is no evidence in the record that the Army assumes responsibility for death, injury, or damage caused by unexploded ordnance in the contaminated area. Dedudding by the appellant is considered impractical. In these circumstances, it appears that the appellant's offer was properly rejected, under the discretionary power of the Secretary (or his delegate) on the basis that it is not in the public interest to grant a sodium prospecting permit for development purposes. United States ex rel. Jordan v. Ickes, 143 F.2d 152 (App. D.C. 1944), cert. den. 323 U.S. 759.

Accordingly, the decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, is affirmed.

The appellant is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Carl H Thomas
(Acting)Director

Enclosure

DISTRIBUTION:

Mr. George E. Johnson (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing

When an offer for an oil and gas lease does not include 640 acres of land available for leasing and does not come within any of the exceptions stated in the regulation 43 CFR 192.42(d) the offer is defective and subject to rejection. The fact that public land is covered by an outstanding application for an oil and gas lease does not render it not available for leasing within the meaning of the cited regulation.

Robert A. Adams, Los Angeles 0164331 (April 15, 1960)

In reply refer to:

Los Angeles 0164331
5.04g

April 15, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

Robert A. Adams	:	Oil and Gas
	:	
	:	

Decision Affirmed

Mr. Adams has appealed from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, which rejected his above-identified offer filed under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 edition, section 226) for failure to comply with item 9(b) of the instructions on the back of the lease form requiring that a lease offer for less than 640 acres be rejected if not within the exceptions in 43 CFR 192.42(d) of the regulations,i.e., in this instance, surrounded by lands not available for leasing.

On June 8, 1959 when the appellant filed his lease offer, adjoining lands to the 40 acres he applied for, being included in an oil and gas lease offer 1/ which had not ripened into a lease at the time, were available for leasing. The fact that public land is covered by an outstanding application for an oil and gas lease does not render it not available for leasing within the meaning of the cited regulation. Natalie Z Shell et al., 62 I.D. 417 (1955).

Accordingly, the Manager's decision rejecting the offer is affirmed.

A new offer for the same land filed simultaneously with the appeal on November 10,1959 appears proper. The case is therefore remanded for further processing with priority from the date the proper offer was filed.

1/ Lease offer Los Angeles 0160901 was filed October 20, 1958 and issued effective as of October 1, 1959 for 1277 acres, causing the land applied for by the appellant to be surrounded by land unavailable for leasing at the time his new offer was filed, within the meaning of the regulations.

Mr. Adams is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:
Mr. Robert A. Adams (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec 11-2
affirmed A-28495
LO (Sec)

DOCKET FILES

OIL AND GAS * 1 Generally

* 19 Priority of Offers

Where an assertion of irregularities in the issuance of an oil and gas lease is not buttressed by positive and substantial evidence and where it is not shown that the lease was issued in contravention of law or regulation, the lease constitutes a binding contract and will not be disturbed.

A noncompetitive oil and gas lease must be issued to the qualified person who first submits a proper application for it, if a lease is to be issued for the lands.

Harold Ladd Pierce, Los Angeles 0162016 (April 18, 1960)

LO

In reply refer to:

Los Angeles 0162016
5.04g

April 18, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

Harold Ladd Pierce : Oil and Gas
:
:

Decision Affirmed

Mr. Harold Ladd Pierce has appealed from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, dated October 20, 1959, rejecting his above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U. S. C., 1952 ed., Sup. V, sec. 226), because the land is embraced in outstanding oil and gas lease, Los Angeles 0162014, issued pursuant to a drawing held on April 2, 1959, for the land in accordance with the provisions of regulation 43 CFR 191.10. The appellant drew priority No. 2 in the same drawing for the land.

The records show that the appellant had a lease for the disputed land, Los Angeles 074178, which was issued effective January 1, 1949, and extended for five years from January 1, 1954. In December, 1958, prior to the time that the appellant and his wife had filed a valid relinquishment of the lease with the Land Office, the appellant submitted two oil and gas lease offers, Los Angeles 0161948 and Los Angeles 0161969, which were both rejected because the land was still included in an outstanding lease. The appellant submitted a third offer, Los Angeles 0162016, for the land at 10:00 A.M. on December 22, 1958. Several other offers for the land were also filed at this time, so a drawing was held on April 2, 1959. The applicant under lease offer Los Angeles 0162014 received priority number one in this drawing and received a lease for the land effective November 1, 1959.

The appellant contends that there were irregularities on the part of the personnel of the Land Office in their handling of the relinquishments of the lease for the land, Los Angeles 074178, and the filing of the applications for the land. Further, the appellant contends that Mrs. Eleanor R. Smith, the lessee of the disputed land under lease Los Angeles 0162014, is not the sole owner of the lease. Because of these alleged irregularities, the appellant prays that a hearing be held.

A noncompetitive oil and gas lease must be issued to the qualified person who first submits a proper application for it, if a lease is to be issued for the land. C. T. Hegwer et al., 62 I.D. 77 (1955).

Where applications received by mail or filed over the counter at the same time are in conflict, the right of priority of filing will be determined by a public drawing. 43 CFR 191.10. Once this priority is determined, a lease will be issued to the first qualified person with the highest priority in the drawing.

Since the appellant's contention of irregularities on the part of the land office personnel in the issuance of oil and gas lease Los Angeles 0162014 and his contention that Mrs. Smith is not the sole owner of lease Los Angeles 0162014 have not been buttressed by any positive and substantial evidence, and since the appellant has not shown that lease Los Angeles 0162014 was issued in contravention of any law or regulation, the lease constitutes a binding contract which cannot be disturbed.

The appellant has not presented any evidence which would warrant holding a hearing as to the disputed issues in this case.

Accordingly, the decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Harold Ladd Pierce is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

If an appeal is taken by Mr. Pierce, then the adverse party to be served is Mrs. Eleanor R. Smith, 1608 Glencoe Way, Glendale 8, California.

Thomas
Acting Director

Enclosure

DISTRIBUTION:
Mr. Harold Ladd Pierce (Certified Mail)
Mrs. Eleanor R. Smith (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

L O Inc)

DOCKET FILES

OIL AND GAS * 3 Acreage Limitations

ADJUDICATION * 4 Reliance

An oil and gas lease offer which exceeds 2560 acres and does not come within the exceptions where the rule of approximation applies, (43 CFR 192.42(d) and item 9(b) of the instructions on the lease form) is properly rejected.

Walter A. Plummer, James W. Reitz, Los Angeles 0164685 (April 26, 1960)

fo

In reply refer to:

Los Angeles 0164685
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

April 26, 1960

Certified Mail
Return Receipt Requested

DECISION

Walter A. Plummer	:	Oil and Gas
James W. Reitz	:	
	:	

Decision Affirmed

The parties named have appealed from a decision of the Chief, Mineral Adjudication Unit, California Land Office at Los Angeles, dated December 17, 1959, which rejected their above noted lease offer for 2880 acres submitted under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226) for the reason that, in the total area sought, it failed to comply with 43 CFR 192.42 of the regulations and item 9 of the general instructions on lease offer Form 4-1158 which, with certain exceptions not pertinent in this offer, restrict total acres in oil and gas lease offers to 2560.

The appellants contend, in substance, that they interpreted information given them by personnel in the Los Angeles Land Office to the effect that acreage in excess of 40,000 could not be leased by one individual, to mean that they could include 2880 in one document. They contend that they relied on the information given them and the fact that their lease offer, for 2880 acres with the total fee for that acreage, was accepted by the personnel of the Land Office as indicating their offer was proper.

The contentions are without merit. It is the responsibility of each applicant to prepare a proper application reflecting a knowledge of the pertinent law and departmental regulations. Cf. Robert Uptain, A-26956 (October 25, 1954). The appellants have not shown that they were furnished erroneous information or that the information they received was subject to the interpretation which they ascribe to it.

The mere receipt of an improper offer by personnel of the land office may not be construed as a determination that the offer is acceptable and valid. Had the appellants taken the precaution to read the instructions on the lease form they would have noted, under the ninth paragraph of the general instructions, that an offer exceeding 2,560 acres (with certain exceptions not material here) is subject to rejection and will afford the offeror no priority.

Only by requiring close adherence to the regulations can the Department insure orderly procedures and fairness to all applicants. United States v. E. V. Pressentin et al., A-27495 (April 2, 1958).

Walter A. Plummer and James W. Reitz are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward W Woozley
Director

Enclosure

DISTRIBUTION:
Mr. Walter A. Plummer and James W. Reitz (Certified Mail)
Geological Survey (3)
Minerals Staff Officer (3)
Appeals List No. 1
EG

appeal to Sec 12-15-60
affirmed A-28590

DOCKET FILES

OIL AND GAS * 10 Lease Offers

A noncompetitive oil and gas lease offer, which was not accompanied by a statement of interest in the offer and the lease, if issued, and such statement was not submitted within 15 days from the time of the filing of the offer, as required by the provisions of 43 CFR 192.42(e)(3)(iii), was properly rejected by the Land Office.

S. and B. Oil, Incorporated, Los Angeles 0164893 (May 9, 1960)

In reply refer to:
Los Angeles 0164893

May 9, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

S. and B. Oil, Incorporated : Oil and Gas

Decision Affirmed

S. and B. Oil, Incorporated, has appealed from a decision of the Manager, dated January 18, 1960, rejecting its above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), for failure to file a signed statement that it is the sole party in interest in the offer and the lease, if issued, with the offer or within 15 days thereafter as required by the provisions of regulation 43 CFR 192.42(3)(3)(iii).

The appellant contends that it neglected to enclose a signed statement of sole party in interest in the offer when it filed the offer with the Land Office.

The records show that the appellant filed its oil and gas lease offer on August 3, 1959. On January 27, 1960, the appellant filed a statement of sole party in interest in the lease offer and lease, if issued, with its appeal from the rejection of its offer by the Land Office.

Regulation 43 CFR 192.42(e)(3)(iii) provides, in pertinent part, as follows:

> " * * * Each offer when first filed, shall be accompanied by * * * [a] signed statement by the offeror that he is the sole party in interest in the offer * * *. Such statement must be filed not later than 15 days after the filing of the lease offer."

A lease offer that is defective for failure to file a statement of interest in the offer, as required by the provisions of regulation 43 CFR 192.42(e)(3)(iii) cannot be reinstated by the filing of a statement of interest subsequent to the 15-day grace period allowed by the regulation.

Accordingly, the decision of the Manager is affirmed.

S. and B. Oil, Incorporated, is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:
S. and B. Oil, Incorporated (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

appeal to Sec
affirmed A-28520
12-15-60

DOCKET FILES

OIL AND GAS * 10 Lease Offers

* 3 Acreage Limitations

A noncompetitive oil and gas lease offer which was not accompanied by a statement of interest in the offer and the lease, if issued, and such statement was not submitted within 15 days from the time of the filing of the offer, as required by the provisions of 43 CFR 192.42(e)(3)(iii), was properly rejected.

An oil and gas lease offer which includes less than 640 acres of land and does not fall within one of the exceptions in regulation 43 CFR 192.42 is properly rejected.

Anna Scheiderer, Los Angeles 0165062 (May 9, 1960)

In reply refer to:

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Los Angeles 0165062
5.04g

May 9, 1960

Certified Mail
Return Receipt Requested

DECISION

Anna Scheiderer : Oil & Gas

Decision Affirmed, as Modified

Mrs. Anna Scheiderer has appealed from a decision of the Manager, Los Angeles Land Office, dated January 18, 1960, rejecting her above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the offer was not accompanied by a statement as to whether or not the offeror is the sole party in interest in the offer and the lease, if issued, as required by the provisions of regulation 43 CFR 192.42(e)(3)(iii), and such statement was not filed during the 15-day grace period.

The appellant contends that at the time she applied for the lease she overlooked enclosing a signed statement that she is the sole party in interest in the offer and the lease, if issued.

The records show that Mrs. Scheiderer filed her oil and gas lease offer, Los Angeles 0165062, on August 17, 1959. Her statement of interest in the lease offer was not filed, however, until February 15, 1960, at which time Mrs. Scheiderer filed her appeal.

Regulation 43 CFR 192.42(e)(3)(iii) provides in pertinent part that:

> " * * * Each offer when first filed, shall be accompanied by * * * [a] signed statement by the offeror that he is the sole party in interest in the offer * * *. Such statement must be filed not later than 15 days after the filing of the lease offer * * *."

A lease offer that is defective for failure to file a statement of interest in the offer, as required by the provisions of regulation 43 CFR 192.42(e)(3)(iii), cannot be reinstated by the filing of a statement of interest subsequent to the 15-day grace period allowed by the regulation.

Furthermore, the records show that the appellant's offer included only 160 acres of land and contiguous lands were available for leasing. Hence, the offer is subject to rejection for this further reason since an oil and gas lease offer which includes less than 640 acres of land and does not fall within one of the exceptions listed in regulation 43 CFR 192.42 is properly rejected. W. H. Burnett; William Weinberg, A-28046 (August 31, 1959).

Accordingly, the decision of the Manager, Los Angeles Land Office, is affirmed, as modified herein.

Mrs. Scheiderer is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mrs. Anna Scheiderer (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

DOCKET FILES

OIL AND GAS * 2 Acquired Lands

* 9 Lands Subject to Leasing

In the absence of evidence that acquired land within the boundaries of city limits are not within the incorporated limits of the city, but is an enclave surrounded by the city, an application therefor is properly rejected as acquired lands within the limits of an incorporated city and not subject to lease under the Mineral Leasing Act for Acquired Lands.

Paul E. Roth, Los Angeles 0162971 MAY 23 1960

In reply refer to:
Los Angeles 0162971
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

May 23, 1960

Certified Mail
Return Receipt Requested

DECISION

Paul E. Roth : Oil and Gas

Decision Affirmed

Mr. Paul E. Roth has appealed from a May 11, 1959, decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, rejecting his above-identified oil and gas lease offer filed under the Mineral Leasing Act for Acquired Lands, (30 U.S.C., 1958 edition, sections 351-359), for the reason the lands involved are within the exterior boundaries of the City of Los Angeles, California, and, therefore, are excluded from leasing by section 3 of the law cited supra, (id., sec. 352).

The appellant contends, in substance, that the land is not within nor a part of the City of Los Angeles, but, rather, an enclave of land acquired by the United States and surrounded by the City of Los Angeles. The appellant further contends, in substance, that the lands in question were never annexed by the City of Los Angeles; are under the jurisdiction of a federal agency other than the General Services Administration, namely the Veterans Administration; and, that said agency is utilizing the lands at the present for purposes which would not be incompatible with drilling or exploration for oil and gas on this site. The appellant refers to serial Los Angeles 0138800 and states it was determined therein that certain Veterans Administration property was not within the incorporated city limits of Los Angeles but was an enclave surrounded by the city, and that the new methods of drilling, operation and production render acceptable the leasing of such properties for oil and gas.

In the case of Los Angeles 0138800 cited by the appellant, (departmental decision Tom H. Dowlen, A-27724 decided November 17, 1958), it was held that a portion of the land involved, being a part of the Veterans Administration Center property, was not within the incorporated city limits of Los Angeles, but is an enclave surrounded by the city, and subject to leasing as acquired lands, with the consent of the Veterans Administration. *

However, in the instant case, it appears that the land in question is not an enclave surrounded by the City of Los Angeles, but, rather is a part of the city itself, according to information submitted

---

* The land included in the lease offer Los Angeles 0138800 was located in a Veterans Administration center in T. 1 S., R. 15 W., San Bernardino Meridian, whereas the land included in the appellant's lease offer is located in T. 2 N., R. 15 W., San Bernardino Meridian.

to this office. This determination is based on information contained in "Thomas Brothers Popular Atlas of Los Angeles County", 1955 Edition, and the U.S. Geological Survey San Fernando and Van Nuys 7.5 minute quadrangles, 1953.

Accordingly, the land being within the incorporated City of Los Angeles, it is not subject to leasing as acquired lands under the provisions of the Mineral Leasing Act for Acquired Lands, supra. It was proper to reject the appellant's lease offer therefor, Cf. Duncan Miller, A-27566 (April 29, 1958), and the decision appealed from, is therefore, affirmed.

Mr. Paul E. Roth is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Paul E. Roth, (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
RBO

DOCKET FILES

OIL AND GAS * 10 Lease Offers

* 1 Generally

A noncompetitive oil and gas lease offer, which was not accompanied by a statement of interest in the offer and the lease, if issued, and such statement was not submitted within 15 days from the time of the filing of the offer, as required by the provisions of 43 CFR 192.42(e)(3)(iii), was properly rejected by the Land Office.

The filing of a regulation for publication in the Federal Register is constructive notice thereof to the offeror.

William E. Pipal et al., Los Angeles 0165885 (June 10, 1960)

In reply refer to:
Los Angeles 0165885
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

June 10, 1960

Certified Mail
Return Receipt Requested

DECISION

William E. Pipal :
Martin Fritzen : Oil and Gas

Decision Affirmed

Messrs. William E. Pipal and Martin Fritzen have appealed from a decision of the Manager, Los Angeles Land Office, dated January 25, 1960, rejecting their above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), for failure to file a signed statement that they are the sole parties in interest in the offer and the lease, if issued, with the offer or within 15 days thereafter as required by the provisions of regulation 43 CFR 192.42(e)(3)(iii).

The appellants offer as their reason for appeal that they were unaware that the new regulation existed.

Oil and gas lease offer Los Angeles 0165885 was filed on October 12, 1959. On February 19, 1960, the appellants filed a statement of sole parties in interest in the lease offer and lease, if issued, with their appeal from the rejection of their offer by the Land Office.

Regulation 43 CFR 192.42(e)(3)(iii), Circular 2009, published in the Federal Register issue of January 13, 1959 (24 F.R. 282), effective February 12, 1959} provides, in pertinent part, as follows:

> " * * * Each offer when first filed, shall be accompanied by * * * /a/signed statement by the offeror that he is the sole party in interest in the offer * * *. Such statement must be filed not later than 15 days after the filing of the lease offer."

The filing of a regulation for publication in the Federal Register is constructive notice thereof to the offeror. D. K. Edwards et al. v. Albert G. Brockbank et al., A-25960 (April 3, 1951).

A lease offer that is defective for failure to file a statement of interest in the offer, as required by the provisions of regulation 43 CFR 192.42(e)(3)(iii) cannot be reinstated by the filing of a statement of interest subsequent to the 15-day grace period allowed by the regulation.

Accordingly, the decision of the Manager is affirmed.

Messrs. Pipal and Fritzen are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:
Mr. William E. Pipal (Certified Mail)
Mr. Martin Fritzen (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

appeal to Se

DOCKET FILES

OIL AND GAS (* 9 Lands Subject to Leasing
* 6 Consent of Agency

A lease offer for lands in a National Forest will be rejected where the agency having jurisdiction over the lands objects to the issuance of an oil and gas lease on the ground that oil and gas operations will interfere with the purposes for which the lands are being used.

Russell H. Reay, LA 0153093 (June 22, 1960)

EIVED
JUL 5 1960

In reply refer to:
Los Angeles 0153093
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

June 22, 1960

Certified Mail
Return Receipt Requested

DECISION

Russell H. Reay : Oil and Gas
:
:

Decision Affirmed

Mr. Reay has appealed from a decision of the Manager, California Land Office at Los Angeles dated July 15, 1958, rejecting, in part, his oil and gas lease offer under the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226) as to 320 acres of land situated within the Angeles National Forest and the drainage area of the Dry Canyon Reservoir, which is part of the Los Angeles city water supply system, on the ground that the Department of Agriculture (by the Regional Forester, Forest Service) has objected to oil and gas leasing of the lands.

The appellant contends, in substance, that his offer should not have been rejected as to the lands in the drainage area of the reservoir but that stipulations should be included in a lease of the lands to him to protect the water supply system of the City of Los Angeles.

The record verifies the status of the lands and the objection of the Forest Service to leasing of the lands in question.

It is not considered that any stipulations could adequately protect the water supply from pollution. By a supplemental report dated April 6, 1960 from the Forest Service it is stated, as a result of further inquiry, that their recommendations remain the same, i.e., that no lease be issued because of proximity of the rejected lands to the reservoir. The Forest Service reports that during a heavy storm it would be extremely difficult to prevent any runoff from draining into the reservoir itself, and asserts the belief that there might be a rather serious problem in controlling pollution and contamination of the reservoir.

Even though lands may be subject to lease under the provisions of the Mineral Leasing Act, supra, despite the fact that they are withdrawn for national forest purposes, such leasing is discretionary with the Department. If the leasing would interfere with the uses of the lands for the purposes for which reserved, it is proper to reject offers for such leases. John C. de Armas, Jr., A-27105, May 16, 1955; Cf. Earl J. Boehme et al., 62 I.D. 9 (1955). Accordingly, in view of the objection noted by the agency administering the surface of the lands, it is not considered in the public interest to issue the lease to include the rejected lands.

The decision of the Manager is correct, and is hereby affirmed.

Mr. Reay is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Acting Director

Enclosure

DISTRIBUTION:
Mr. Russell H. Reay (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec
affirmed A-18586 1-25-61

DOCKET FILES

OIL AND GAS * 12 Relinquishments

* 19 Priority of Offer

A lessee of an oil and gas lease who relinquishes his lease is not thereby disqualified from applying for a new lease of the same lands.

The first person to apply for a lease of the lands after the relinquishment of the prior lease is noted on the tractbook, if otherwise qualified, has a statutory preference right to a lease for the lands.

Duncan Miller, Los Angeles 015083 (June 22, 1960)

RECEIVED
JUL 5 1960
Dept. of the Interior
Bur. of Land Mgmt.
State Office
Sacramento
Calif.

In reply refer to:
Los Angeles 0156083
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

June 22, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas
:
Decision:Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated December 7, 1959, rejecting the above-noted noncompetitive oil and gas lease offer submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because a portion of the lands are embraced in outstanding oil and gas lease Los Angeles 0149793, and the balance of the lands are embraced in homestead entry 698317,* patented July 14, 1919, with no reservation of oil and gas to the United States.

The appellant contends that the lessee of oil and gas lease Los Angeles 0149793, George R. Wickham, relinquished a prior lease for the lands embraced in his lease and then subsequently filed a new lease offer for the lands, which violates section 17 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), which permits a lessee to hold a lease for a maximum of ten years, absent production. Further contentions of the appellant are that the decision of the Land Office violates section 27 of the Mineral Leasing Act since it condones a monopoly of these public lands in favor of Mr. Wickham and against the public and that the decision violates regulation 43 CFR 192.40, limiting leasing to the first qualified offeror.

The records show that oil and gas lease Los Angeles 056704, held by George R. and Vesta B. Wickham, was issued May 1, 1947, for a 5-year term and extended for another 5-year term. The lease was relinquished by George R. Wickham, individually and as administrator of the estate of Vesta B. Wickham, on April 9, 1957. The cancellation and relinquishment of the lease were noted on the tract book on April 10, 1957, at 9:30 A.M.

Oil and gas lease offer Los Angeles 0149793 was filed by George R. Wickham on April 10, 1957, at 10:00 A.M. for the lands formerly embraced in lease Los Angeles 056704.

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* This is the patent number. The homestead entry was Los Angeles 031794.

Oil and gas lease offer Los Angeles 0156083 was filed on March 19, 1958, at 10:00 A.M. for a portion of the lands included in oil and gas lease offer Los Angeles 0149793.

The contentions of the appellant are without merit. The Department has held that a lessee of an oil and gas lease who relinquishes his lease is not thereby disqualified from applying for a new lease of the same lands. Duncan Miller, A-28114, etc. (October 30, 1959). Accordingly, Mr. Wickham was not estopped from filing a new lease offer, Los Angeles 0149793, for the lands formerly embraced in a prior lease for the lands, Los Angeles 056704, merely because he was lessee of lease Los Angeles 056704.

Inasmuch as oil and gas lease offer Los Angeles 0149793 was filed prior to oil and gas lease offer Los Angeles 0156083, the latter was properly rejected since the first person to apply for a lease of the lands after the relinquishment of the prior lease is noted on the tractbook, if otherwise qualified, has a statutory preference right to a lease for the lands. C. T. Hegwer et al., 62 I.D. 77 (1955).

Accordingly, the decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations

If an appeal is taken, the adverse party to be served is:

Mr. George R. Wickham
1861 W. Mountain Street
Glendale 1, California

Earl J Thomas
Acting Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Mr. George R. Wickham, Attorney at Law (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
IS

appeal to Sec
Dismissed A-28582 - 9-29-60

DOCKET FILES

OIL AND GAS * 4 Assignments and Transfers
* 8 Extensions
* 9 Lands Subject to Leasing

The fact that a lease has been partially assigned several times does not preclude a two-year continuance and resultant extension from the date of the last partial assignment if the lease has not yet gone into an extended term as a result of a partial assignment.

The assignment of part of the lands included in a lease during the single 5-year extension allowed under section 17 of the Mineral Leasing Act, as amended, segregates the assigned and the retained portions of the lease, and, although there is no production on any part of the leased lands at the time of the assignment or thereafter, both the assigned portion and the retained portion continue in full force and effect for a minimum period of two years, in accordance with section 30(a) of the Mineral Leasing Act, as amended by the Act of July 29, 1954, even though the 2-year extension will continue the leases beyond the end of the 5-year extension of the original lease.

A partial assignment filed when there is at least one lease month remaining in the term of the lease is effective to segregate the assigned and retained portions into separate leases and to extend the segregated leases.

An oil and gas lease offer for lands included in existing leases is properly rejected.

Raymond J. Hansen, Los Angeles 0164882 (June 22, 1960)

RECEIVED
JUL 5 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Los Angeles 0164882
5.04g

June 22, 1960

Certified Mail
Return Receipt Requested

DECISION

Raymond J. Hansen : Oil and Gas

Decision Affirmed

Mr. Raymond J. Hansen has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated January 25, 1960, rejecting his above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), for the reason that on the date his offer was filed the land was embraced in outstanding oil and gas leases Los Angeles 087740, 087740-B, 087740-E, 087740-I, and 087740-J.

The appellant contends that after one 2-year extension is granted which will carry the lease beyond a normal 10-year term, a subsequent 2-year extension during the 10-year term of the lease can not be granted; that neither the provisions of the Mineral Leasing Act of February 25, 1920, supra, nor the provisions of regulation 43 CFR 192.144(b) allow a 2-year extension beyond the 10-year term of a nonproducing lease; that Solicitor's Opinions M-36398 (December 14, 1956) and M-36443 (June 4, 1957) are incorrect; that Congress did not intend to provide for a 2-year extension beyond the normal 10-year term of the lease in the Act of July 29, 1954; that Solicitor's Opinions M-36398 and 36443, supra, are a retroactive application of the Act of July 29, 1954, whereas nothing in the provisions of the Act makes it retroactive, and statutes must be construed prospectively unless a retroactive effect is clearly provided for in the Act; and that the Department must interpret the Mineral Leasing Act in accord with the terms of the applicable statutes of Congress rather than by erroneous interpretations of the statutes by departmental officers.

The appellant's contentions are without merit. Section 30(a) of the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 187a), under which the assignments of the existing leases for the land were made provides in pertinent part:

> "* * * any oil or gas lease * * * may be assigned or subleased, as to all or part of the acreage included therein, subject to final approval by the Secretary * * * and any assignment or

> sublease shall take effect as of the first day of the lease month following the date of filing in the proper land office of three original executed counterparts thereof, * * *. * * * Any partial assignment of any lease shall segregate the assigned and retained portions thereof, * * *. * * * Assignments under this section may also be made of parts of leases which are in their extended term because of any provision of this Act. The segregated lease of any undeveloped lands shall continue in full force and effect for two years and so long thereafter as oil or gas is produced in paying quantities."

Nothing in section 30(a) limits the privilege of the two-year continuance to a single partial assignment or to the first partial assignment filed. It will apply to as many partial assignments out of a single lease as may be made within the period of extension authorized by any other extension provisions in the Act. However, the law was not intended to nor does it react upon itself to provide for extensions of parts of any lease assigned after such lease has gone into its additional extended term as a result of assignments and consequent extensions made pursuant to the provision of Section 30(a) of the Act. Solicitor's Opinion M-36432, 64 I.D. 127 (1957).

As to the appellant's contention that the Mineral Leasing Act does not allow a 2-year extension beyond the 10-year term for nonproducing lands, the Department has held that the assignment of part of the lands included in a lease during the single 5-year extension allowed under section 17 of the Mineral Leasing Act, as amended, segregates the assigned and the retained portions of the lease, and, although there is no production on any part of the leased lands at the time of the assignment or thereafter, both the assigned portion and the retained portion continue in full force and effect for a minimum period of two years, in accordance with section 30(a) of the Mineral Leasing Act, as amended by the Act of July 29, 1954, even though the 2-year extension will continue the leases beyond the end of the 5-year extension of the original lease. Richard P. DeSmet et al., A-27837 (October 29, 1958).

It is unnecessary to discuss those portions of the Hansen appeals which attack Solicitor's Opinion M-36398 of the Department. Suffice it to say that the arguments presented have previously been considered by the Department and found to be without merit. Betty J. Lewis, Colorado 024377, etc. (August 18, 1959) (Approved by the Assistant Secretary of the Interior on August 21, 1959). M. Blaine Peterson, A-28111, November 23, 1959.

Solicitor's Opinion M-36443 (June 4, 1957) was overruled in part in Franco Western Oil Company et al., 65 I.D. 316, 427 (1958). The Franco Western case held that a partial assignment filed during the last month of the lease term cannot become effective to segregate the lease and to entitle the segregated portions to any extension. A partial assignment filed when there is at least one lease month remaining in the term of the lease, however, is effective to segregate the assigned and retained portions into separate leases and to extend the segregated leases.

In any event, the leases conflicting with the appellant's oil and gas lease offer, which were extended for two years pursuant to Solicitor's Opinion M-36398, _supra_, were extended by a competent official who had jurisdiction to issue and extend oil and gas leases. Therefore, their existence must be recognized and it serves to segregate the leased lands and to close them to any further filing until their cancellation or revocation is noted on the tract book. _Hjalmer A. Jacobsen et al._, 61 I.D. 116 (1953); _Joyce A. Cabot et al._, 63 I.D. 122 (1956); _R. B. Whitaker et al._, 63 I.D. 124 (1956); _Margaret A. Andrews et al._, 64 I.D. 9 (1957). Inasmuch as the appellant's lease offer was filed at a time when the lands applied for were all embraced in existing leases, the offer was properly rejected. _Richard P. DeSmet et al._, _supra_.

Accordingly, the decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Hansen is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Acting Director

Enclosure

DISTRIBUTION:

Mr. Raymond J. Hansen (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing
* 3 Acreage Limitations (6-Mile Square rule)

An oil and gas lease offer which was rejected because the offer embraced lands not entirely within a 6-mile square, as required by item 9(a) of the general instructions on back of the lease form will be remanded for further processing where the records show that the land in fact are within a 6-mile square.

Alpha L. Hotchkiss, Los Angeles 0164749 (June 22, 1960)

FILED
JUL 5 1960
Dept. of the Interior
Bur. of Land Mgmt.
State Office
Sacramento
Calif.

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Los Angeles 0164749
5.04g

June 22, 1960

DECISION

Alpha L. Hotchkiss : Oil and Gas

Case Remanded

Mrs. Alpha L. Hotchkiss has appealed from a decision of the Manager, Los Angeles Land Office, dated March 7, 1960, which rejected her oil and gas lease offer filed July 22, 1959, under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226) for the reason that the offer embraced lands not entirely within a 6-mile square as required by item 9(a) of the General Instructions on the back of Form 4-1158 (April 1957).

In her appeal, the appellant contends that the lands described in her offer are within a 6-mile square; in fact, the lands are not more than 5 miles from east to west.

The contention of the appellant is correct. An examination of the records shows that the lands applied for are within a 6-mile square.

In accordance with the revised regulation 43 CFR 192.42(g)(1)(i) as published in Volume 24 F.R. at page 4140 of May 22, 1959, an oil and gas lease offer which describes lands as "entirely within an area of six miles square or an area of six surveyed sections in length or width" may be accepted.

In view thereof, the appellant's oil and gas lease offer is remanded for further processing, all else being regular.

Earl J Thomas
Acting Director

DISTRIBUTION:

Mrs. Alpha L. Hotchkiss (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
WJ

75105-60

appeal to sec
affirmed A-28579 9-29-60

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing
* 4 Assignments or Transfers

An oil and gas lease offer is properly rejected in part where the lands applied for are covered by existing leases.

Leases extended by partial assignments filed during the last month of the last year of the extended term of the base lease will not be disturbed where such assignments were filed on or before August 29, 1958.

Ernest G. Erickson, Los Angeles 0161570 (June 22, 1960)

RECEIVED
JUL 5 1960
Dept. of the Interior
BUR. OF LAND MGMT.
STATE OFFICE
Sacramento
Calif.

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Los Angeles 0161570
5.04g

June 22, 1960

Certified Mail
Return Receipt Requested

DECISION

Ernest G. Erickson	:	Oil and Gas

Decision Affirmed

Mr. Ernest G. Erickson has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated September 24, 1959, rejecting in part his above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the lands are included in outstanding oil and gas leases Los Angeles 087465, 087465-A, and 0161374.

The appellant contends that the Land Office's interpretation of regulation 43 CFR 192.144(b) and Solicitor's Opinion M-36398, 64 I.D. 135 (1956), is contrary to the Mineral Leasing Act of February 25, 1920, as amended, supra, since they allow a 2-year term beyond the 10-year term provided in the Act; that it was not the intention of Congress, nor do the provisions of the Mineral Leasing Act of February 25, 1920, as amended by the Act of July 29, 1954 (68 Stat. 583), provide for a 2-year extension beyond a term of ten years; that the allowance of a 2-year extension beyond the end of the 10-year term is discriminatory in that the holder of a 40-acre tract is denied the privilege of a 2-year extension since 40 acres is the smallest legal subdivision and cannot be split; that the purported extension of leases Los Angeles 087465 and 087465-A pursuant to the provisions of the Act of July 29, 1954, supra, is invalid since the leases were already in their extended 5-year term when the Act of July 29, 1954, supra, was passed and the Act cannot be given retroactive effect; that section 30(a) of the Mineral Leasing Act as amended (30 U.S.C., 1958 ed., sec. 187a), provides that no assignment may be approved before the first day of the month following the date of its filing so a partial assignment filed during the 12th month of the 10th year will not be effective in obtaining a 2-year extension, and that conflicting leases Los Angeles 087465 and 087465-A are not subject to extension under the supplemental decision of September 30, 1958, in Franco Western Oil Company et al., 65 I.D. 427 (1958), since this decision is being challenged in the Federal courts under Complaint in Civil Action No. 2810, Raymond J. Hansen v. Fred A. Seaton, filed on October 7, 1959. The appellant also contends that oil and gas lease Los Angeles 0161374 should be cancelled.

Oil and gas lease Los Angeles 087465 (formerly Sacramento 037548) was issued effective September 1, 1948, for a 5-year term and extended for another 5-year term. On August 21, 1958, a partial assignment of the lease from the record titleholder thereof, Signal Oil and Gas Company, assignor, to Al Stevenson, assignee, was filed, and it was approved effective September 1, 1958. As a result of the approval of this assignment, a new lease, Los Angeles 087465-A, was created and both Los Angeles 087465 and 087465-A were extended for two years, or until August 31, 1960.

Oil and gas lease offer Los Angeles 0161374 was filed on November 13, 1958, for 120 acres of isolated land within the meaning of regulation 43 CFR 192.42(d) since the contiguous lands were embraced in oil and gas leases Los Angeles 087465 and 087465-A.

The appellant filed his oil and gas lease offer, Los Angeles 0161570, on November 26, 1958.

The appellant's contentions are without merit. Section 30(a) of the Mineral Leasing Act, as amended, supra, under which the assignments of the existing leases for the land were made, provides in pertinent part:

> "* * * any oil or gas lease * * * may be assigned or subleased, as to all or part of the acreage included therein, subject to final approval by the Secretary * * * and any assignment or sublease shall take effect as of the first day of the lease month following the date of filing in the proper land office of three original executed counterparts thereof, * * *. * * * Any partial assignment of any lease shall segregate the assigned and retained portions thereof, * * *. * * * Assignments under this section may also be made of parts of leases which are in their extended term because of any provision of this Act. The segregated lease of any undeveloped lands shall continue in full force and effect for two years and so long thereafter as oil or gas is produced in paying quantities."

The Department interpreted section 30(a) of the Mineral Leasing Act in Franco Western Oil Company et al., 65 I.D. 316, 427 (1958), to mean that a partial assignment filed during the last month of the lease term cannot become effective to segregate the lease and entitle the segregated portions to any extension, but partial assignments of leases in the 12th month of their 10th year, filed on or before August 29, 1958, will be recognized.

It is unnecessary to discuss those portions of the appellant's appeal which attack the Solicitor's Opinion M-36398, supra, and the supplemental decision, rendered on September 30, 1958, in Franco Western Oil Company et al., supra. Suffice it to say that the arguments presented have previously been considered by the Department and found to be without merit. Betty J. Lewis, Colorado 024377, etc. (August 18, 1959), approved by the Assistant Secretary on August 21, 1959; M. Blaine Peterson, A-28111 (November 23, 1959); and

Duncan Miller, A-28133 (December 22, 1959). This Bureau is bound by the decisions of the Department until they are overruled by the Department or the courts. Leases Los Angeles 087465 and 087465-A, which conflict with the appellant's oil and gas lease offer, Los Angeles 0161570, were extended for two years pursuant to Solicitor's Opinion M-36398, supra, and they were extended by a competent official who had jurisdiction to issue and extend oil and gas leases. Therefore, their existence must be recognized, and it serves to segregate the leased lands and to close them to any further filing until their cancellation or revocation is noted on the tract book. Hjalmer A. Jacobsen et al., 61 I.D. 116 (1953); Joyce A. Cabot et al., 63 I.D. 122 (1956); R. B. Whitaker et al., 63 I.D. 124 (1956); Margaret A. Andrews et al., 64 I.D. 9 (1957). See also 43 CFR 192.43.

Inasmuch as the appellant's lease offer was filed at a time when the lands applied for were all embraced in existing leases, the offer was properly rejected. Richard P. DeSmet et al., A-27837 (October 29, 1958).

Accordingly, the decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Erickson is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal, there must be strict compliance with the regulations.

If an appeal is taken, then the adverse parties to be served are as follows:

Signal Oil and Gas Company
811 West Seventh Street
Los Angeles 17, California

Al Stevenson
606 South Hill Street
Los Angeles, California

Earl Thomas
Acting Director

Enclosure

DISTRIBUTION:

Mr. Ernest G. Erickson (Certified Mail)
Adverse Parties Listed Above (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (9)
Appeals List No. 1
LS

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing

* 10 Lease Offers: 640 -acre rule

The Department has held that the regulation which requires that, with certain exceptions, an offer for a noncompetitive oil and gas lease under the Mineral Leasing Act, must include 640 acres of land is a reasonable exercise of the discretion vested in the Secretary by the Act, and an offer which includes less than 640 acres and does not come within an exception is properly rejected. The above regulation refers to land which is available for leasing at the time of the offer.

East Mesa Oil Company, Los Angeles 0166329 (June 22, 1960)

RECEIVED
JUL 5 1960
Dept. of the Interior
Bur. of Land Mgmt.
STATE OFFICE
Sacramento
Calif.

In reply refer to:

Los Angeles 0166329
5.04g

June 22, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

East Mesa Oil Company : Oil and Gas
:
:

Decision Affirmed

The East Mesa Oil Company has appealed from a decision of the Chief, Mineral Adjudication Unit, California Land Office at Los Angeles, which rejected its above-identified oil and gas lease offer filed December 15, 1959 under provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226) in accordance with item 9(b) of the instructions on the back of the lease form requiring that an offer be for not less than 640 acres unless it comes within the exceptions of 43 CFR 192.42(d) i.e., surrounded by lands not available for leasing.

The appellant company contends that, when it filed its lease offer, the lands filed on were open for leasing, and that its offer for the equivalent of a section, being within the 10% variance allowed by the lease instructions, was proper.

According to the record, only half of the 633.35 acres applied for, that situated in section 5, T. 15 S., R. 17 E., S.B.M., California, was available land. The remainder of the land, situated in section 7, was patented without a reservation of oil and gas to the United States. Land adjoining section 5 was available for leasing.

The regulation requiring a minimum of 640 acres, with certain exceptions, refers to land which is available for leasing at the time of filing the offer. Eugene J. Bernardini et al., 62 I.D. 231 (1955).

While the lease offer was properly rejected for failure to comply with instructions 9(b) of the lease form it was also defective for failure to submit with the offer the sole statement of interest as required by 43 CFR, 1959 Supp., 192.42(e)(3)(iii).

Accordingly, the decision of the Chief Adjudicator is considered correct, and is affirmed.

The East Mesa Oil Company is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Earl J Thomas
Acting Director

Enclosure

DISTRIBUTION:
East Mesa Oil Company (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec

DOCKET FILE

OIL AND GAS * 10 Lease Offers

* 12 Relinquishment

RULES OF PRACTICE * 11 Statement of Grounds

An application for a noncompetitive oil and gas lease is properly rejected where the land applied for has been leased to a prior applicant for the land.

One who applies for land in a relinquished lease is not disqualified to do so simply because he held a prior lease on the land.

A statement of reasons for an appeal by a junior offeror for an oil and gas lease which charges that the Land Office failed to show that a conflicting senior offer for an oil and gas lease was proper in all respects is not a sufficient specification of error to constitute the statement of reasons required by the rules of practice and the appeal is properly dismissed.

Duncan Miller, Los Angeles 0162096 etc. (July 1, 1960)

In reply refer to:

Los Angeles 0162096
0164021
0164023
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 1, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decisions Affirmed

Mr. Miller has appealed from decisions of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated December 21, 15 and 11, 1959, respectively, which rejected his above-identified lease offers, filed on January 2, and May 1, 1959, respectively, under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226), for the reason that the lands were embraced in outstanding leases. (See Appendix)

The Land Office decision of December 21, 1959, concerning 0162096, reflects the record and the issuance of a lease, Los Angeles 0161947, on the land involved, effective January 1, 1960. The appellant contends, in substance, that the appellee, by relinquishing a former lease and refiling on the land, gained an unlawful advantage against the public and was an unqualified offeror. Numerous departmental decisions, in cases appealed by Mr. Miller under similar circumstances, have pointed out to him that there is no provision of either the Mineral Leasing Act, supra, or the regulations, 43 CFR, Parts 191 and 192, that disqualifies am offeror from filing an oil and gas lease offer simply by reason of his holding a prior lease on the lands or because he had prior knowledge that a former lease was to be relinquished. Duncan Miller, A-27457 (June 26, 1957); A-27620 (July 28, 1958); A-27649, A-27653, A-27665, A-27713, A-27760, A-27764 (August 6, 1958); A-27959-A (August 4, 1959).

As to lease offers Los Angeles 0164021 and 0164023 the appellant directs his appeal to the rejection of lands embraced in leases, Los Angeles 077180, 077180(B), 077180(C), 077180(D), 077176 and 077176(B) which were extended two additional years from April 1, 1959, in accordance with departmental regulations 43 CFR 192.144(b), as further discussed in Solicitor's Opinion M-36398 (64 I.D. 135), as a result of partial assignments filed during the extended terms of the leases making the lease terms in excess of ten years without production of oil and gas on the leaseholds.

The Union Oil Company, lessee under Los Angeles 077176, a conflicting lease (See Appendix), has filed an answer to the appeal generally denying the appellant's assertions which it stated are bold assertions smacking of conclusions wholly unsupported by fact or controlling law, and refers to the regulations and the many departmental decisions upholding the validity of the extension of leases upon partial segregation in their extended terms.

The appellant contends, since there was no production, extension of the leases beyond a primary term of five years and a secondary term of five years was in violation of the monopoly provisions of Sec. 27 of the Mineral Leasing Act. He gives no reasons for this contention. The Department has held that an appeal which rests upon no more than a charge that the decision appealed from is in error, which charge is not supported by evidence or a plausible legal argument, is not sufficient specification of error to constitute the statement of reasons for an appeal required by the rules of practice and the appeal is properly dismissed. Duncan Miller, A-28063 (October 26, 1959) and cases cited therein including Duncan Miller, (65 I.D. 290) (1958).

For the reasons given the decisions of the Chief, Mineral Adjudication Unit, are considered correct and are affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be computed on the basis of $5 for each of the three cases included in the appeal. If the appeal covers all three cases adversely affected by this decision the total filing fee is $15. In taking an appeal there must be strict compliance with the regulations, including notifications of the adverse parties listed in the Appendix.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Adverse Parties Listed in Appendix
Minerals Staff Officer (3)
Appeals List No. 1
EG

APPENDIX

Cases under Appeal	Conflicting Leases	Names and Addresses of Adverse Parties
LA 0162096	0161947	George R. Wickham 1861 W. Mountain Street Glendale, California
LA 0164021	077180	Humble Oil and Refining Co. 612 S. Flower Street Los Angeles 17, California
	077180-B	Getty Oil Company 897 Pacific Electric Building Los Angeles 14, California
	077180-C	Texaco, Inc., 3350 Wilshire Blvd. Los Angeles, California
	077180-D	S. E. Cavanough 1217 South Stanley Avenue Los Angeles 19, California
LA 0164023	077176	Union Oil Company Union Oil Center P. O. Box 7600 Los Angeles 54, California
	077176-B	Donald C. Ingersoll Land Department P. O. Box 7600 Los Angeles 54, California

DOCKET FILES

OIL AND GAS * 2 Acquired Lands

An acquired lands lease offer which was rejected by the Manager because the offeror failed to name the agency having jurisdiction as required by regulation (43 CFR 200.3) will be remanded for further processing where this information is furnished with the appeal.

Where such a lease offer is rejected in part for the further reason that some of the land applied for is public land and not available for acquired lands leasing and on appeal a clarification of land status reveals that still additional land was public land and unavailable, the case will be remanded for necessary correction and issuance of a lease on the reduced acreage of available acquired land.

Harold L. Rowland, Los Angeles 0153030 (July 15, 1960)

In reply refer to:

Los Angeles 0153030
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 15, 1960

DECISION

Harold L. Rowland : Oil and Gas
:
:

Decision Affirmed, as Modified

Mr. Harold L. Rowland has appealed from the Acting Manager's decision dated March 28, 1958, rejecting his above-noted noncompetitive oil and gas lease offer, filed pursuant to the Mineral Leasing Act for Acquired Lands (30 U.S.C., 1958 ed., secs. 351-359) for the reasons, that (1) the N½SW¼ is public domain and not subject to leasing under the Mineral Leasing Act for Acquired Lands and (2) the appellant failed to show which Government agency acquired or has jurisdiction over the remaining lands.

The appellant states all the lands applied for, Tract A-16 which comprises 135.38 acres described as N½SW¼, SW¼SW¼ and the west 507.44' of the SE¼SW¼ sec. 4, T. 12 S., R. 11 E., S.B.M., California were acquired by the United States Atomic Energy Commission, and he indicates his willingness to accept a lease subject to certain drilling and other reasonable stipulations. 1/

The case record shows that the SW¼SW¼ sec. 4 is also public domain. The record further reveals that all of the land sought, was acquired for the Atomic Energy Commission under condemnation proceedings and that such proceedings were initiated to clarify title solely because the Corps of Engineers, the agency acting for the Atomic Energy Commission in procuring the land, had failed to negotiate with one John J. Elmore, Jr., for such rights as he might have in 15.38 acres described as the West 507.44' of the SE¼SW¼ as assignee of desert land entry, Los Angeles 039172. Mr. Elmore was made a defendant in the condemnation proceedings.

Accordingly, the SW¼SW¼ being public land, the Acting Manager's decision should also have rejected this offer, Los Angeles 0153030. The above 15.38 acres are available for leasing under this acquired lands lease offer, having been patented without mineral reservation to John Jamison Elmore, Patent No. 1, 137,580, and subsequently acquired on the above condemnation proceedings.

1/ Upon receipt of the Acting Manager's decision the appellant filed public domain oil and gas lease offer, Los Angeles 0156638, on April 2, 1958.

2/ The Corps of Engineers apparently erred in the description of the desert land entry assigned to John J. Elmore. This entry included only the SE¼, SE¼SW¼, Sec. 4.

The appellant has now complied with the regulation 43 CFR 200.3 by naming the Atomic Energy Commission as the agency having jurisdiction over the land. This agency has consented to leasing the lands with certain stipulations.

Accordingly, as modified herein, the Acting Manager's decision is affirmed and the case record will be remanded for further processing of the lease offer and for the issuance of a lease pursuant thereto on the available land with the stipulations specified by the United States Atomic Energy Commission all else being regular.

Earl D Thomas

Acting Director

DISTRIBUTION:
Asst. to SS(Los Angeles) w/case record
Mr. Harold L. Rowland (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

76861-60

DOCKET FILES

OIL AND GAS * 1 Generally (Known Geologic Structure)

Land embraced in a known geological structure may be offered for lease only by competitive bidding, and it is proper to reject a noncompetitive lease offer therefor.

The Geological Survey's definition of a known geological structure will not be disturbed in the absence of a clear showing that the definition was improperly made.

Michael R. Rector, Los Angeles 0164692 (July 27, 1960)

In reply refer to:
Los Angeles 0164692
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 27, 1960

Certified Mail
Return Receipt Requested

DECISION

Michael R. Rector : Oil and Gas

Decision Affirmed

Mr. Michael R. Rector has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated March 23, 1960, rejecting his above-noted noncompetitive oil and gas lease offer, submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the lands are within the known geologic structure of the Sunset Field, defined March 10, 1949, and such lands can only be leased competitively in accordance with the provisions of regulations 43 CFR 192.140.

The appellant contends the Land Office informed him that it would take about six months to process his application, so he accumulated geologic data and made an economic survey of the lands embraced in his application, and that he is ready to drill a well on the property. The appellant states that both the United States and he would benefit from the drilling of such a well, and that he is willing to pay $1.00 an acre rental.

The records show that the lands embraced in the appellant's oil and gas lease offer, Los Angeles 0164692, are within the known geologic structure of the Sunset Field, defined March 10, 1949.

The appellant's oil and gas lease offer was filed on July 15, 1959.

Section 17 of the Mineral Leasing Act, supra, provides that land within a known geological structure of a producing oil and gas field can be leased only through competitive bidding, and section 32 of the Act (30 U.S.C., 1958 ed., sec. 189), authorizes the Secretary of the Interior to fix and determine the boundary lines of any structure for the purpose of the Act. The Secretary in turn has empowered the Director of the Geological Survey to determine the boundaries of any known structures of producing oil or gas fields. (43 CFR 192.6).

A definition by the United States Geological Survey of a producing oil and gas structure will not be disturbed in the absence of a clear showing that the definition was not properly made. Cf. Duncan Miller, A-27644 (September 22, 1958) and cases cited therein. Since the land is in a defined known geological structure and only subject to lease on a competitive bid basis, it was proper to reject the appellant's lease offer.

Accordingly, the decision of the Chief, Mineral Adjudication Bnit, Los Angeles Land Office, is affirmed.

Mr. Michael R. Rector is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Michael R. Rector (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
LS

appeal to Sec
affirmed A-28626 7-31-61

DOCKET FILES

OIL AND GAS * 10 Lease Offers
* 19 Priority of Offer
RULES OF PRACTICE * 11 Statement of Grounds

Where opportunity is afforded all who enter the office at approximately the time of its opening to file simultaneously in a receptacle maintained for that purpose, there is no room for administrative discretion with respect to those who choose to file over the counter.

Where an appellant states merely that there has been an erroneous interpretation of the law, without pointing out wherein the decision appealed from is believed to be erroneous, the appellant has failed to state reasons for his appeal, as required by the rules of practice, and the appeal is dismissed.

Duncan Miller, Signal Oil and Gas Company et al., Los Angeles 0161045, etc.
(July 27, 1960)

In reply refer to:

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Los Angeles 0161045
0161130
5.04g

July 27, 1960

Certified Mail
Return Receipt Requested

DECISION

Signal Oil and Gas Company, et al. :
Duncan Miller : Oil and Gas

Decision Affirmed

Those named above have appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated August 10, 1959, which rejected their respective lease offers 1/ for the same land filed at 10:02 A.M. on October 30, 1958, and at 10:00 A.M. November 3, 1958, respectively, for the reason that the land applied for is embraced in outstanding oil and gas lease, Los Angeles 0161055, issued effective September 1, 1959, pursuant to an offer filed simultaneously at 10:00 A.M. on October 30, 1958, with five other offers and drawn number one at a drawing held to determine priority.

Mr. Miller contends, in substance, lease Los Angeles 0161055 was filed for lands in a lease which he states was deceitfully relinquished and that the decision was without due regard for the rights of the first qualified offeror. Signal Oil and Gas Company contends that their lease offer, Los Angeles 0161045, submitted by Mr. Jay de l' Eau, was the first in-person filing submitted over the counter as soon as the Land Office would accept such offers after 10:00 A.M. on October 30, 1958 and that their offer should be considered as filed simultaneously with other offers for the same land deposited before 10:00 A.M. in the special receptacle provided by the Land Office. They submitted with their appeal an affidavit signed by Mr. Jay de l' Eau stating that he was the first in line at 10:00 A.M.; that he was the first to make a filing over the counter in person, and that he was told by a Land Office employee that filings received prior to 10:00 A.M. were accepted as of 10:00 A.M. that same day.

1/ As above-identified filed under provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226)

In answer to the appeal, Mrs. William Walker Williams, lessee under Los Angeles 0161055, defends the Land Office decision and refers to Solicitor's Opinion M-36435, 64 I.D. 124 (1957), which upheld the method provided by the Colorado Land Office for receiving applications from the public, consisting of a large red box receptacle appropriately captioned as a depository for ALL 10:A.M. and earlier filings.

The record is correctly reflected by the decision of the Chief, Adjudicator, Colorado Land Office, and as shown in paragraph one herein.

In his appeal, Mr. Miller fails to state wherein the decision is arbitrary and capricous, or why a relinquishment was deceitful. He has failed to state reasons for his appeal, as required by the rules of practice, and his appeal is, therefore, dismissed. See Duncan Miller, 65 I.D. 290 (1958).

As to the appeal of Signal Oil and Gas Company et al., numerous departmental decisions have been rendered covering the many and varied circumstances under which applications and offers are considered simultaneously filed, or by which priority is established among applicants. See Bumpers v. Holloway, 48 L.D. 269 (1921); Barbara M. Smoot, 61 I.D. 337 (1954) and cases cited therein. To avoid such controversy as to priority among offerors and to assure orderly procedure, the Manager provided a method of filing as described by notice posted conspicuously in the Land Office, and of which the appellant company's representative was, by his own admission, told of the arrangement by an employee of the Land Office. Where opportunity is afforded all who enter the office at approximately the time of opening to file simultaneously in a receptacle maintained for that purpose, there is no room for administrative discretion with respect to those who choose to file over the counter. 1/

If the appellant's agent who filed its offer did in fact immediately after the opening of the land office doors proceed to the counter and present the offer, it would seem that it should have been stamped at 10:A.M. See Edith M. Kasper, Blanche V. White, A-27821 (February 4, 1959); George R. Wickham, Raymond J. Hansen, A-27892 (April 21, 1959); George E. Conley, A-28128 (January 18, 1960).

However, the affidavit of the appellant's agent, submitted with its appeal brief, does not state that he immediately proveeded to the counter to file his offer as soon as the land office opened its doors. He merely states in the affidavit "Said land office would not accept in-person filings on said date earlier than 10:00 o'clock A.M." He did not state that the land office refused to accept an application filed immediately as the door opened as being filed at 10:A.M. His affidavit does not dispute the evidence of the official time stamp. Any inference to be drawn from the fact that he was first in the line of applicants to make personal filings, while persuasive is not sufficient to disprove the evidence of the official time stamp.

1/ Solicitor's Opinion 64 I.D. 124 (1957).

The Department has held that the time of filing of an offer, as shown by the official time stamp, will be accepted in the absence of convincing evidence that the time stamp is erroneous. Margaret A. Andrews et al., 64 I.D. (1957). We do not find the appellant has submitted such evidence. C. A. Fleetwood, A-28250 (June 3, 1960).

Accordingly, the decision of the Chief, Mineral Adjudication Unit, is affirmed.

Mr. Miller and the Signal Oil and Gas Company are each allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be computed on the basis of $5.00 for each case which is included in the appeal. In taking an appeal there must be strict compliance with the regulations including serving the following adverse party.

Mrs. William Walker Williams
694 Walther Way
Los Angeles 49, California

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Signal Oil and Gas Company (Certified Mail)
Adverse Party (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

76861-60

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing
* 10 Lease Offers

Lands included within outstanding oil and gas leases are not available for leasing, and an application filed for such lands must be rejected.

Duncan Miller, Los Angeles 0164025 (July 29, 1960)

In reply refer to:

Los Angeles 0164025
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 29, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated March 16, 1960, which rejected his oil and gas lease offer filed May 1, 1959, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226). The offer was rejected for the reason that part of the lands applied for were included in Homestead Entry No. 11430, patented November 16, 1891, without reservation of oil or gas to the United States, and the remaining lands were embraced in outstanding oil and gas leases, Los Angeles 087741 and 087741-A.

The decision stated that lease Los Angeles 087741 was issued effective May 1, 1949, for a primary term of five years and was extended five years from May 1, 1954. No production was obtained on the leased premises. By partial assignment approved effective August 1, 1957, the assigned acreage became segregated into separate lease Los Angeles 087741-A. The partial assignment of oil and gas lease Los Angeles 087741, during its extended five-year term, had the effect of continuing in force the assigned and retained portions thereof for a period of two years from the effective date of the assignment and so long thereafter as oil and gas is produced in paying quantities, in accordance with 43 CFR 192.144(b) and Solicitor's Opinion M-36398 of December 14, 1956 (64 I.D. 135).

The appellant contends that prior oil and gas leases Los Angeles 087741 and 087741-A expired by operation of law at the end of their respective five-year extended terms, whereby the lands were made available for leasing when his offer was filed, and that the partial assignments, under which the retained and assigned portions of the leases were considered extended, should never have been approved under the confused circumstances as disclosed by the lease records.

A reexamination of the records verify the facts as reported by the decision appealed from and shows that the interpretation of the law was correct and proper in that the partial assignment of an oil and gas lease during its extended 5-year term has the effect of continuing in force all segregated leases of undeveloped lands for two years from the first day of the first month following the complete filing of the partial assignment, and so long thereafter as oil or gas is produced in paying quantities. See Louise Safarik, et al, A-28307, April 22, 1960.

In any event, it was proper to reject the appellant's offer because the extensions of leases Los Angeles 087741 and 087741-A were granted, prior to the filing of appellant's oil and gas lease offer by an official of the Department authorized to grant extensions of oil and gas leases. While such extensions were outstanding, they served to segregate the land and prevented the initiation of rights in the land by others. Hjalmer A. Jacobson, E. B. Todhunter, 61 I.D. 116, 118-119 (1953); M. Blaine Peterson, A-28111 (November 23, 1959); Duncan Miller, A-28133 (December 22, 1959).

Accordingly, the decision of the Chief, Mineral Adjudication Unit, is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Charles P. Mead
Acting Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Minerals Staff Officer (3)
Geological Survey
Appeals List No. 1
WJ

78710-60

appeal to Secy
affirmed A-28639
TA

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON 25, D. C.

IN REPLY REFER TO:
Sacramento 061739
5.04g
Oil and Gas
MIN

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.
AUG 29 2 26 PM 1960
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

Certified Mail
Return Receipt Requested

	DECISION	Appeal from Decision of
	AUG 24 1960	
	:	June 14, 1960
John Henry Geisler	:	Notice of Appeal filed
	Appeal Dismissed	July 8, 1960

For the reason listed below your appeal to the Director, Bureau of Land Management, is hereby summarily dismissed (43 CFR 221.98):

☐ No statement of reasons has been filed in support of the appeal, and the time for filing the statement has expired. (43 CFR 221.3).

☒ Your statement of reasons for your appeal (or your request for extension of time to file a statement of reasons) ~~was filed in this office, but it was filed late. (43 CFR 221.3).~~ The statement of reasons was transmitted to this office after expiration of the period allowed, and the delay in filing cannot be waived. (43 CFR 221.92(b)).

☐ You have not served the adverse party named in the decision below with a copy of ☐ the notice of appeal, and/or ☐ the statement of reasons for the appeal, in the manner prescribed in 43 CFR 221.95. (43 CFR 221.4).

☐ Your appeal does not point out wherein the decision appealed from is believed to be in error and consequently you have failed to state reasons for the appeal, as required by the rules of practice. See Duncan Miller, 65 I.D. 292.

The dismissal of an appeal for failure to comply with the above requirements is mandatory. We have enclosed Form 4-1364 which contains the cited regulations.

You are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations contained in enclosed Form 4-1365.1/ If you do not appeal we will close the case and return the record to our State Supervisor for further appropriate action.

A. H. Furr

For the Director

Enclosures 2

1/ The adverse party to be served is:

NONE

Copy to: John Henry Geisler (Certified Mail)
SS (California) LO (Sacramento)

AUG 29 1960

...OF INTERIOR
...RAMENTO, CAL.

[illegible] first day of the first month [illegible] the complete filing of the partial assignment, and so long thereafter as oil or gas is produced in paying quantities. See Louise Safarik, et al, A-2830[illegible] 1960.

In any event, it was proper to reject the appellant's offer because the extensions of [illegible] Angeles 087741 and 087741-A were granted, prior to the filing of appellant's oil and gas lease offer by an official of the Department [illegible] to grant extensions of oil and gas leases. While s[illegible] were outstanding, they served to segregate the land and prevented the initiation of rights in the land by others. Hjalmer A. Jacob[illegible], 61 I.D. 116, 118-119 (1953); M. Blaine Peterson, A-28111 (November 23, 1959); [illegible] (Decem[illegible]) A-28133 [illegible].

Accordingly, the decision of the [illegible] Unit, is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations [illegible] enclosed Form 4-1365. If [illegible] of [illegible] in accordance with the regulations.

Acting [illegible]

Enclosure

Distribution

Mr. [illegible] Miller (Certified Mail)
Minerals Staff Officer (3)
Geological Survey
Appeals [illegible]
WJ

appeal to Sec
affirmed A-28699 9-13-61

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing
* 19 Priority of Offers

Lands included within outstanding oil and gas leases are not available for leasing, and an application filed for such lands must be rejected.

A rejection of an offer because it was not the first one drawn in a public drawing held in accordance with 43 CFR 295.8 was proper where the rejection was based on a procedure adopted by the Bureau for administrative purposes and expediency for processing simultaneous oil and gas filings filed pursuant to 43 CFR 192.43 and the procedure was not inconsistent with the Mineral Leasing Act, as amended.

Duncan Miller, Los Angeles 0166532 (September 21, 1960)

In reply refer to:
Los Angeles 0166532
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

September 21, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Mineral Adjudication Unit, Los Angeles Land Office, dated March 9, 1960, which rejected oil and gas lease offer Los Angeles 0166532 filed January 21, 1960, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226). The offer was rejected because part of the land applied for was embraced in outstanding oil and gas lease Los Angeles 060259-B and the remaining portion applied for was included in oil and gas Availability List No. 1 of January 18, 1960, and, at the public drawing held on February 4, 1960, the first offer drawn for the offered lands was filed by Robert A. Moffitt.

The records show that the lands were embraced in oil and gas lease Los Angeles 060259 which issued March 1, 1948 and was extended for a period of five years from March 1, 1953. A partial assignment of Los Angeles 060259 was filed on January 28, 1958 and approved effective February 1, 1958, creating Los Angeles 060259-B whereby the assigned and retained portion of the leases were extended two years to January 31, 1960 under the provision of 43 CFR 192.144(b). Los Angeles 060259-B expired by operation of law January 31, 1960 and the case was closed. Los Angeles 060259 was relinquished January 6, 1960. The land in former lease Los Angeles 060259 was made available for leasing upon proper notation of the relinquishment in the Land Office tract book under date of January 15, 1960 pursuant to 43 CFR 192.43 and posted on the January availability list (January 18, 1960) pursuant to 43 CFR 192.43(b) whereby, at a public drawing held on February 4, 1960, Robert A. Moffitt, pursuant to his offer Los Angeles 0166563 drew number one priority.

The action taken by the Chief, Mineral Adjudication Unit, in rejecting Mr. Miller's offer as to the lands formerly embraced in Los Angeles 060259 was in accordance with procedures adopted by the Office of the Director, Bureau of Land Management, for the expeditious handling of simultaneous oil and gas lease offers filed pursuant to 43 CFR 192.43, Circular 2032 (24 F.R. 9846, December 8, 1959) effective thirty days after publication in the Federal Register. 1/

Mr. Miller contends that the former lease, Los Angeles 060252 2/ was relinquished prior to the effective date of the regulation 43 CFR 192.43 and it was error to conclude that the lands were leasable pursuant to 43 CFR 192.43.

The appellant's contention is without merit. The date the relinquishment was noted on the Land Office tract book, January 15, 1960, is the controlling date when the lands involved herein became available for leasing, if the lands were otherwise available for leasing, and on the date relinquishment was noted the amended regulation 43 CFR 192.43, Circular 2032 (24 F.R. 9846, effective January 7, 1960) governed.

Regulation 43 CFR 192.43, Circular 2032, supra, provides for the availability of lands to further lease offers where noncompetitive leases expire, are canceled, relinquished or terminated. Regulation 43 CFR 192.43(b) states in pertinent part that:

> "*** On the third Monday of each month *** the authorized officer of the Bureau of Land Management will post on the bulletin board a list *** of the lands in leases which *** were relinquished *** and which will become subject to leasing at 10 o'clock a.m. on the fifth working day thereafter together with a notice stating that the lands in such leases are subject to simultaneous filings of lease offers from the time of such posting until 10 o'clock a.m. on the said fifth working day thereafter. ***"

Since Mr. Miller's offer was not the first one drawn in the drawing, the offer was properly rejected. See Henry S. Morgan, supra.

As to the rejection of the Miller offer because the lands are embraced in oil and gas lease Los Angeles 060259-B, Mr. Miller, in his appeal, does not point out wherein he believes the decision of the Chief, Mineral Adjudication Unit, was in error. Consequently, Mr. Miller failed to state statement of reasons for this appeal as required by the rules of practice, and to this extent, the appeal is dismissed. Duncan Miller, 65 I.D. 290 (1958). However, the Department ruled that Los Angeles 060259 and 060259-B were properly extended under the provisions of 43 CFR 192.144(b) see Richard P. DeSmet et al., A-27837 (October 29, 1958), and since the land was embraced in oil and gas lease Los Angeles 060259-B at the time Miller's offer was filed, the offer was properly rejected.

1/ The procedures, upon which the decision is based, were adopted for administrative purposes and expediency. See Henry S. Morgan, BLM-A 051223 (July 15, 1960).

2/ The former lease involved herein is Los Angeles 060259.

Accordingly, the decision of the Chief, Mineral Adjudication Unit, was proper and it is hereby affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations contained in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

If an appeal is taken by Mr. Miller then the adverse party to be served is:

Mr. Robert A. Moffitt
3424 Wilshire Blvd., Suite 1124
Los Angeles 5, California

Acting Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Mr. Robert A. Moffitt (Regular Mail)
Minerals Staff Officer (3)
Appeals List No. 1
WJ

appeal to Sec
affirmed A-28686 1-25-61

DOCKET FILES

OIL AND GAS *9 Lands Subject to Leasing
*12 Relinquishments
*19 Priority of Offer

A lessee of an oil and gas lease who relinquishes his lease is not thereby disqualified from applying for a new lease of the same lands.

The first person to apply for a lease of the lands after the relinquishment of the prior lease is noted on the tract book, if otherwise qualified, has a statutory preference right to a lease for the lands.

Duncan Miller, Los Angeles 0166010 (September 22, 1960)

In reply refer to:
Los Angeles 0166010
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

September 22, 1960

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Miller has appealed from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, rejecting his noncompetitive oil and gas lease offer, Los Angeles 0166010, filed October 23, 1959 and submitted pursuant to the provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 226). The decision, dated June 13, 1960, rejected the offer because the lands applied for were embraced in lease Los Angeles 0165948 issued June 13, 1960 and effective July 1, 1960, to the Southern California Petroleum Corporation pursuant to its prior valid offer filed October 14, 1959.

Appellant contends that the lands involved were embraced in a prior lease held by the Southern California Petroleum Corporation and that while in its final term a relinquishment was used to enable that corporation to obtain a new lease and thus acquire a monopoly. Appellant argues that Southern California Petroleum's offer was not the first qualified offer as it was an attempt to evade the lease term provisions of the Act and that his was the first qualified offer under 43 CFR 192.40.

However, departmental decisions have previously held that lands relinquished out of a prior lease become available for leasing upon notation of the relinquishment upon the appropriate tract book, 1/ M. A. Machris, et al., 63 I.D. 161 (1956); and that there is no prohibition against a lessee relinquishing a lease and then refiling for the same lands after appropriate notation has been made of the relinquishment on the tract book record of the land office. Duncan Miller, A-27620 (July 28, 1958), id., A-28114 (October 30, 1959).

Inasmuch as the appellant was the junior filing applicant for lands embraced in his lease offer, it was properly rejected after issuance of a lease to the senior filing applicant. B. M. Shotkin, A-27469 (September 24, 1957).

1/ The availability of lands to further lease offers where a prior lease has been relinquished is now governed by Circular 2032, 24 F.R. 9846, (December 8, 1959).

Accordingly, the decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

If an appeal is taken by Mr. Miller, the adverse party to be served is:

Southern California Petroleum Corporation
4250 Wilshire Boulevard
Los Angeles 5, California

Earl J Thomas
Acting Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Southern California Petroleum Corporation (Regular Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
JBJ

DOCKET FILES

OIL AND GAS * 4 Assignments and Transfers

Where a statewide bond covering "A" and "B" as principals was submitted by "A" in support of a request for approval of a partial assignment of a competitive oil and gas lease, "A" was properly required to post a bond covering himself as principal under 43 CFR 192.100(e) which requires a separate bond from each lessee.

Halbouty Alaska Oil Company, Fairbanks 020912 (October 6, 1960)

In reply refer to:
Fairbanks 020912
020913
020914
020915
020916
020919
5.04g

October 6, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

Halbouty Alaska Oil Company Assignee	: : : :	Assignments of Competitive Oil and Gas Leases

Decision Affirmed

Halbouty Alaska Oil Company has appealed from a decision dated March 31, 1960, denying approval of partial assignments of the above-identified oil and gas leases. Approval of the assignments conveying interests in the leases to the appellant was denied because the Statewide Bond submitted was determined to cover both Michel T. Halbouty and the appellant jointly and not the appellant individually.

On appeal the appellant submitted the statement of the surety, United States Fidelity and Guaranty Company, to the effect that the bond covers both Mr. Halbouty and the appellant as principals "whether they are acting jointly or severally."

The regulation, 43 CFR 192.100(e), requires a separate bond from each lessee. Therefore, since the appellant seeks to acquire title to the leases in its own name compliance with the pertinent regulation is necessary and a separate bond is required prior to approval of the assignments.

The Land Office decision is affirmed.

The appellant herein is allowed 30 days from the receipt of this decision to submit a new bond in accordance with the terms of this decision or to appeal to the Secretary of the Interior. If an appeal is taken the amount of the filing fee will be computed on the basis of $5 for each assignment included in the appeal. If the appeal covers all assignments adversely affected by this decision the total filing fee is $30. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

DISTRIBUTION:

Halbouty Alaska Oil Company Alaska (Certified Mail)
Halbouty Alaska Oil Company Texas (Certified Mail)
David C. Bintliff
Mineral Staff Officer (2)
Geological Survey (7)
Appeals List 1.
BF

82003-60

appeal to Sec
affirmed A-28750
6-26-61

DOCKET FILES

OIL AND GAS * 4 Assignments or Transfers
* 8 Extensions

Where a partial assignment of a noncompetitive oil and gas lease on land patented under the act of July 17, 1914, is submitted during the eleventh month of the extended five-year term of the lease and the assignee does not meet the mandatory bonding requirements of regulations 43 CFR 192.100(b) for the protection of the surface owner by filing a bond with his application, or on a timely basis to complete the assignment papers, such assignment is properly denied and returned unapproved and the lease is properly considered to have terminated at the end of ten years.

Donald K. Ladd et al., Los Angeles 076711 (October 27, 1960)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Los Angeles 076711
5.04g

October 27, 1960

Certified Mail
Return Receipt Requested

DECISION

Donald K. Ladd and
Fay M. Howd, Lessees
Albert Stevenson, Assignee
Standard Oil Company of
California, Operator

Oil and Gas

Decision Affirmed

The above-named parties have appealed from a decision of the Chief, Mineral Adjudication Unit, California Land Office at Los Angeles, dated March 24, 1960, which denied approval of a partial assignment of the above-noted lease, issued effective December 1, 1949, and regularly extended for five years to December 1, 1959, under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226), for the reason that the partial assignment was not accompanied by the assignee's oil and gas lease bond for the protection of the surface owner. The lease was held to have terminated by operation of law on November 30, 1959.

The record shows that oil and gas lease, Los Angeles 076711 containing 160 acres, embraced lands patented under the act of July 17, 1914 (30 U.S.C., 1958 ed., secs. 121-122), Patent No. 787831 having issued December 17, 1920. Bond coverage, as required by 43 CFR 192.100(b) of departmental regulations and supplied by the operator's state-wide $25,000 bond as provided by 192.100(e), terminated when the operator, the Standard Oil Company of California, filed an instrument of surrender as to the assigned land on October 27, 1959, leaving this land without bond coverage. The partial assignment, filed on October 28, 1959, was not accompanied by an assignee's bond.

The appellants contend, in substance, that the act of July 17, 1914, *supra*, does not require a bond and that liability under Standard's state-wide bond was still effective as to the land assigned to Stevenson. 1/ They contend that it is premature to ask Stevenson to file bond since he has not entered upon the land for the purpose of prospecting and that there are no crops or improvements of any kind on the land as has been ascertained by actual examination on the ground and further that the period of liability under Standard's $25,000 general purpose bond continues until the assignment is approved.

1/ However, Section 2 of the Act of July 17, 1914, specifically requires a bond for the protection of the owners of surface rights. See 30 U.S.C., 1958 ed., sec. 122.

The contentions are without merit. The law, the terms of the lease and the Department's regulations all clearly indicate that a bond is required. The regulation, 43 CFR 192.140, provides:

> " * * * Subject to final approval by the Bureau of Land Management, assignments and subleases shall take effect as of the first day of the lease month following the date of filing in the proper land office of all papers required by 192.141 and 192.142. No assignment will be approved if the assignee is not qualified to take and hold a lease or if his bond is insufficient. * * * " (Underlining supplied.)

The last day for timely filing a bond to complete the assignment papers, was within the eleventh month of the last year of the 5-year extended term of the lease, i.e., during October 1959, Franco Western Oil Company et al., 65 I.D. 316, 427 (1958). The assignee, therefore, did not comply with the mandatory requirement of regulations for filing a bond, 43 CFR 192.141(c). Previous decisions have held where, before an assignment is submitted for approval in the manner required by regulations, the lease has expired, approval of the assignment will be denied. Central Commercial Company, Charles Ward Hall, BLM 010204 (Oklahoma)(May 15, 1958) which compares Duncan Miller, B. E. Chamberlin, A-27458, (August 12, 1957).

For the reasons given, the decision appealed from is affirmed.

The appellants are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. E. A. Hansen, Asst. Secretary, Standard Oil Company of California
(Operator) (Certified Mail)
Mr. Donald K. Ladd and Fay M. Howd (Lessees) (Certified Mail)
Mr. Albert Stevenson (Proposed Assignee) (Certified Mail)
Minerals Staff Officer (3)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec
affirmed A-28753 - Supp 6-3-69
Vacated-cases Remanded

DOCKET FILES

OIL AND GAS * 9 Lands Subject to Leasing
* 2 Acquired Lands
* 10 Lease Offers

An oil and gas lease for acquired lands which does not contain a complete and accurate description of the lands sought for leasing, sufficient to permit of adequate identification of the lands and proper computation of the acreage, is defective and, consequently, properly rejected.

The California Company, BLM-A 039665 (November 22, 1960)

In reply refer to:

BLM-A 039665
5.04g
November 22, 1960

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

The California Company : Oil and Gas
:
:

Decision Modified and Affirmed

The California Company has appealed from a decision by the Chief, Minerals Adjudication Section, Eastern States Land Office, dated February 25, 1960, which rejected its above-identified lease offer filed on February 8, 1955, under provisions of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C., 1958 ed., secs. 351-359) as not being subject to acquired lands oil and gas leasing for the reason that the Corps of Engineers, Department of the Army, the agency designated by the offeror as having jurisdiction over the lands, disclaims such jurisdiction.

Examination of aerial photographs submitted by the appellant company on September 20, 1956, and the record indicates that the four parcels of land sought, aggregating 716 acres, extend into East Bay and thence into the Gulf of Mexico, having accreted to the narrow strip of contiguous surveyed uplands situate between the bay and the right (west) bank of South Pass of the Mississippi River delta. The tract book records show the surveyed uplands were "selected as swamp land February 17, 1876 under the act of March 2, 1849, List No. 14. Approved June 26, 1876 per List No. 22." Title to the surveyed lands passed, in turn, from the State to private ownership and on July 10, 1903, the lands were acquired from the heirs of James B. Eads by the Corps of Engineers for the Army in connection with river and harbor improvement work on South Pass.

The appellant company, by its attorney, contends the fact that the Army disclaims jurisdiction of the lands applied for is not a proper basis for rejecting its offer. It has submitted a copy of the warranty deed by which the surveyed lands were transferred by purchase from the heirs of James B. Eads to the Army, and copies of other documents including approval of the title and designation of an agent of the United States to accept title to the land. The appellant company contends that, as accretion to acquired lands of the United States, the land covered by the lease offer takes on the same character as the acquired land, and is subject to oil and gas leasing as acquired land.

Rejection of the offer because the Army has not exercised jurisdiction over the lands was improper. However, the offer is subject to rejection for another reason, viz, it did not contain a complete and accurate description of the lands for which a lease is desired. At the time of the filing of the lease offer the regulation in effect (43 CFR 1954 ed., 200.5 (a)) (Circular 1890) provided:

> "Each offer or application for a lease * * *must contain * * * (2) a complete and accurate description of the lands for which a lease * * *is desired. If surveyed * * *and if not so surveyed, by metes and bounds connected with a corner of the public surveys by courses and distances, or described in a manner consistent with the description in the deed of the United States * * *."

This offer filed February 8, 1955, describes the seaward boundaries of each of the four parcels as following the "present" shoreline with only general directional calls such as northerly, easterly, etc. The distance calls are given as being approximately so many feet. Portions of the original surveyed meander line are used for the balance of the description. Standing alone the offer does not permit the seaward extent of the parcels to be located or the area computed. The land description also fails to comply with the current regulation 43 CFR 200.5(a) contained in Circular 2017, 24 F.R. 4140 (May 22, 1959). See provisions of Circular 2017 as published at 24 F.R. 4140.

However, on September 20, 1956, the offeror furnished an undated aerial mosaic on which he had outlined the seaward extent of the parcels by curved lines. Except for possibly parcels II and III the so-called shoreline is not identifiable from the photos. Even with parcels II and III there is no evidence that the shoreline shown is the "present" shoreline. We do not believe that random curved lines drawn on a photo, particularly where the evidence is questionable that the present shoreline is a physically identifiable object, are adequate to identify the lands desired. This type of a boundary is a floating line subject to different interpretation as to physical location both factually and in point of time. Consequently we do not believe the offer amplified by the aerial mosaic is sufficient to identify the lands desired, or to supply the complete and accurate description which the regulations require. It is proper to reject an application for an oil and gas lease where the land sought is not described with sufficient clarity to identify it. *Sidney A. Martin, C. C. Thomas,* 64 I.D. 81 (1957).

For the reasons given the decision of the Chief, Minerals Adjudication Section is affirmed as modified.

The California Company is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure
Distribution on page 3

DOCKET FILES

DISTRIBUTION:
Mr. Marvin J. Sonosky, Attorney at Law (Certified Mail)
The California Company (Regular Mail)
Department of the Army (Regular Mail)
Mr. Samuel W. McIntosh, Attorney at Law (Regular Mail)
Minerals Staff Officer (4)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec
dismissed A-28811 10-27-61

DOCKET FILES

OIL AND GAS * 1 Generally

10 Lease Offers

Where the land applied for has been patented with a reservation of minerals to the United States, it is proper to require a bond for the protection of the surface-right owners as required by the law and regulations.

Duncan Miller, Sacramento 061251 (December 29, 1960)

UNITED STATES
DEPARTMENT OF INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Sacramento 061251
5.04g
December 29, 1960

Certified Mail
Return Receipt Requested

Decision

:

Duncan Miller : Oil and Gas

:

Decision Affirmed

This is an appeal from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office, dated June 7, 1960, which required a $1,000 bond to cover lands embraced in the above-noted oil and gas lease offer for the protection of the surface-right owners.

Appellant contends that all the lands he applied for were not adjudicated by appropriate decision and that it is error to call for a bond for some lands embraced in his application prior to the rendition of a formal decision on a complete adjudication.

The appellant filed an oil and gas lease offer on February 23, 1960, covering 320 acres in Section 8 and 360.18 acres in Section 30, T. 29 S., R. 22 E., M.D.M., California. The lands in Section 30 are embraced in oil and gas lease Sacramento 060977 issued effective July 1, 1960, pursuant to a drawing held on March 4, 1960, in which Mr. Miller was unsuccessful as to those lands.

Appellant's offer as to the lands in section 30 should have been rejected after the drawing in accordance with existing procedures. Also the decision of June 7, 1960 requiring the $1,000 bond should have stated that appellant was the successful offeror for that particular land. However, the record shows that appellant was subsequently advised by the land office that his offer was rejected as to the lands in section 30 and that he was the successful offeror as to the land in section 8.

In view of the above, the appellant is now properly required to file a $1,000 bond as required by section 2 of the act of July 17, 1914 (30 U.S.C., 1958 ed., sec. 122) and the Department's regulation 43 CFR 192.100(b). The requirement of a bond, being imposed by statute as well as by regulation, is therefore mandatory. Accordingly, the decision appealed from is affirmed.

The appellant is allowed 30 days from notice hereof within which to file the required bond or suffer the rejection of his offer.

The appellant is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Charles P. Mead
Acting Director

Enclosure

DISTRIBUTION
- Duncan Miller (Certified Mail)
- Minerals Staff Officer (4)
- Geological Survey (3)
- Appeals List No. 1
- JBJ

In view of the above, the appellant is [illegible] presently required to file a $1,000 bond as required by section 3 of the Act of Aug. 13, 1954 (30 U.S.C., 1958 ed., sec. [illegible]) and the Department's regulation (43 CFR 192.40(b)). The requirement of a bond, [illegible] as a condition [illegible] exploration, is therefore [illegible]. Accordingly, the decision appealed from is affirmed.

The appellant is allowed 30 days from notice hereof within which to file the required bond or suffer the rejection of his offer.

The appellant is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR 221, as amended. See enclosed Form 4-1364. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Acting Director

Enclosure

DISTRIBUTION
[illegible] (Certified Mail)
[illegible] Land Office (2)
Geological Survey (2)
[illegible] File No. 1
[illegible]

[illegible]

appeal to Sec
affirmed A-28831
5-17-62

DOCKET FILES

OIL AND GAS * 4 Assignments or Transfers

Prior to the amendment of regulation 43 CFR 192.140 on June 5, 1959, it was unnecessary for the assignees to file statements of interest in the proposed assignments of record title in order to obtain approval thereof.

The Superior Oil Company
Intex Oil Company
Albert Stevenson, Sacramento 039850 (January 24, 1961)

059152

In reply refer to:
Sacramento 039850
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

January 24, 1961

Certified Mail
Return Receipt Requested

DECISION

The Superior Oil Company and :
Intex Oil Company, Assignors : Oil and Gas
Albert Stevenson, Assignee :

Decision Reversed; Case Remanded

The parties named have appealed from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, dated February 19, 1960, denying approval of a partial assignment of the above-identified lease, issued effective July 1, 1949 and extended five years under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the assignee failed to furnish a statement of sole interest or other statements with his application or within 15 days as required by departmental regulation 43 CFR 192.42(e)(3)(iii).

The appellants contend, in effect, that at the time of the filing of their partial assignment on April 1, 1959, assignee was not required to file statements of interest in the lease, similar to that required of an offeror under regulation 43 CFR 192.42(e)(3)(iii), before the assignment can be approved, nor was a statement of sole interest required by the assignment Form No. 4-1175 then in current use.

The appellants are correct. The decision appealed from overlooked the fact that the provisions in regulations 43 CFR 192.140 and 43 CFR 192.141(a)(2), governing assignments of record title of oil and gas leases, did not require that statements be filed by the assignees stating that they are the sole parties in interest in the proposed assignments at the time these assignments were filed. Regulation 43 CFR 192.140, amended on June 5, 1959, 1/ now provides that such a statement be filed. This amendment would not affect these prior-filed assignments. M. Finell et al., A-28544 etc. (November 14, 1960).

1/ The requirement as to offers in 43 CFR 192.42(e)(3)(iii) was made applicable to assignments by amendment of 192.140 (24 F.R. 4630) effective June 5, 1959 (Circular 2019).

Accordingly, the decision appealed from is reversed and the case file is remanded through the State Supervisor for California for approval of the assignment, all else being regular.

Richard P. DeSmet, the adverse party, is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Edward Woozley
Director

Enclosure

DISTRIBUTION:

Mr. Richard P. DeSmet (Certified Mail)
The Superior Oil Co., (Regular Mail)
Intex Oil Co. (Regular Mail)
Mr. Albert Stevenson (Regular Mail)
Minerals Staff Officer (4)
Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec
affirmed A-28840 9-14-62

DOCKET FILES

OIL AND GAS * 10 Lease Offers

* 18 Descriptions

Where in a simultaneous drawing there are a number of offerors with the same surname, in absence of evidence indicating ineligibility the offers may be included in the drawing to determine the successful offeror.

Where an oil and gas lease offer does not contain a complete and accurate description of the land for which a lease is desired, it is proper to reject the offer.

Duncan Miller, Los Angeles 0167981 (January 26, 1961)

DEPT. OF INTERIOR
SACRAMENTO, CAL.
FEB 21 10 00 AM 1961
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
Los Angeles 0167891
5.04g
January 26, 1961

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

This is an appeal from a decision of the Chief, Minerals Adjudication Unit, Los Angeles Land Office, dated July 27, 1960, which rejected in its entirety the above-noted oil and gas lease offer, filed June 27, 1960, pursuant to the provisions of the Mineral Leasing Act for Acquired Lands (30 U.S.C., 1958 ed., sec. 351 et seq.). The offer was rejected because, at a public drawing held on July 6, 1960, it was not the first one drawn for certain parcels described therein, and, although it was the sole offer for other parcels, the descriptions were found to be inadequate.

Appellant contends that the rejection of three certain parcels in his offer was erroneous as the offer first drawn was accompanied by a number of other offers by parties having the same surname and obviously related. Appellant further contends that the rejection of the remainder of his offer on the basis of inadequate descriptions was also erroneous.

The procedures;, adopted by the Director for expediting simultaneous oil and gas filings pursuant to regulation 43 CFR 192.43, prescribe that where a public drawing is held in accordance with the provisions of 43 CFR 295.8, the offer having the lowest drawn number in each respective prearranged group is established as the successful offeror for the group involved. The procedures also call for an adjudication of each offer for acceptability or eligibility prior to being placed in the public drawing.

The record does not disclose nor does the appellant point out wherein the successful offerors are ineligibile. Therefore, the rejection of appellant's offer as to that portion of his offer was proper.

Appellant described other lands embraced in his offer by reference as follows: "A complete description of said parcels as included herein by incorporating the description and the parcels as described in the approximate 4½ pages of description contained in list #6 as posted in listed pages above under the glass at the counter in the public room of the District Los Angeles Land Office."

Regulation 43 CFR 200.8(g)(1)(i) reads in pertinent part: " * * * an offer will be rejected and returned to the offeror and will afford the applicant no priority if: "The land description does not comply with the requirements of sec. 200.5(a) * * *." Regulation 43 CFR 200.5(a) provides in part: "Each offer or application for a lease or permit must contain * * * (2) a complete and accurate description of the lands for which a lease or permit is desired. * * *"

Therefore, lease offer Los Angeles 0167891 was properly rejected by the Chief, Minerals Adjudication Unit, and, ccordingly, the decision is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Acting Director

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Minerals Staff Officer (4)
Geological Survey (3)
Appeal List No. 1
JBJ

DOCKET FILES

OIL AND GAS * 4 Assignments

* 9 Lands Subject to Leasing

Where a partial assignment is filed prior to the time the regulation governing the filing thereof is amended to require that the assignee submit a statement of his interest and or of other parties in the assignment, the assignment is considered properly filed without such statement.

Lands embraced in leases extended for two years by assignment, are not available for further leasing, and it is proper to reject an offer therefor.

Richard P. DeSmet, Los Angeles 0164609 (January 27, 1961)

In reply refer to:
Los Angeles 0164609
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

January 27, 1961

Certified Mail
Return Receipt Requested

DECISION

Richard P. DeSmet : Oil and Gas
:
:

Manager's Decision Affirmed

Mr. Richard P. DeSmet has appealed from a decision of the Manager, Los Angeles Land Office, dated March 3, 1960 which rejected oil and gas lease offer Los Angeles 0164609 filed July 1, 1959 under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226). The offer was rejected because the lands applied for are embraced in outstanding oil and gas leases Los Angeles 070314 and 070314-C which were extended two years as a result of a partial assignment approved effective June 1, 1959 pursuant to 43 CFR 192.144(b).

The appellant contends that the partial assignment was incomplete when filed because it was not accompanied by a statement of sole interest of the assignee and this statement was not submitted until June 5, 1959 when the lease was in the last month of the tenth year and that within the meaning of the Franco Western Oil Company et al., 65 I.D. 316 (1958) the partial assignment was erroneously approved and the leases were improperly extended.

The records show that the lands were embraced in oil and gas lease Los Angeles 070314 which issued July 1, 1949 and was extended five years from July 1, 1954. A partial assignment of Los Angeles 070314 was filed on May 22, 1959 and approved December 14, 1959 effective June 1, 1959, creating Los Angeles 070314-C whereby the assigned and retained portion of the leases were extended two years to May 31, 1961 under the provision of 43 CFR 192.144(b). The records show that a statement of sole interest of the assignee was not filed until June 5, 1959.

The appellant's contention is without merit. The pertinent regulation, 43 CFR 192.140 Circular 2019, which governs the filing of assignments or transfer of oil and gas leases, was not amended to require the statement of sole party in interest required with oil and gas offers under 43 CFR 192.42e(3)(iii), until the Department incorporated a similar requirement pertaining particularly to assignments into the regulations published in the Federal Register on June 6, 1959. The amendment was not binding upon the public in the absence of actual knowledge thereof until the amendment had been filed on June 5, 1959, with the Federal Register. D. K. Edwards et al. v. Albert G. Brockbank, et al., A-25960 (April 3, 1951).

Consequently, the partial assignment of Los Angeles 070314, filed on May 22, 1959, was properly approved and properly held to extend the leases by the Land Office decision of December 14, 1959. The subsequent action of the Land Office in rejecting the appellant's offer was therefore proper. See M. Finell et al., A-28544 etc., (November 14, 1960), 67 I.D. ___ .

The decision of the Manager is affirmed.

Mr. DeSmet is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken there must be a $5.00 filing fee. In taking an appeal there must be strict compliance with the regulations.

If an appeal is taken by Mr. DeSmet then the adverse parties to be served are:

Atlas Investment Corporation
1100 S. Beverly Drive
Beverly Hills, California

Martha N. Smith
2844 Vaquero Avenue
Los Angeles 35, California

Richfield Oil Corporation
555 S. Flower Street
Los Angeles 17, California

Acting Director

Enclosure

DISTRIBUTION:
Mr. Richard P. DeSmet (Certified Mail)
Adverse Parties (Regular Mail)
Minerals Staff Officer (4)
Geological Survey (3)
Appeals List No. 1
WJ

appeal to Sec
affirmed A-28870 7-31-61

In reply refer to:

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Sacramento 063544
064740
065291
065317
5.04g

March 3, 1961

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decisions Affirmed as Modified

Mr. Duncan Miller has appealed from separate decisions of the Manager, dated December 22, 27 and 29, 1960, requiring the offeror in the above-noted noncompetitive oil and gas lease offers, to consent, by executing Form 4-1558 (December 1960), to the amendments of the lease terms in his offer, as shown therein, in order to comply with and to be bound by all the provisions of Public Law No. 86-705 approved September 2, 1960.

The records show that the offers Sacramento 063544 and 065317 are defective and in violation of the 640-acre rule, regulation 43 CFR 192.42(d), and the offers are hereby rejected. Cf. R. S. Prows, 66 I.D. 19 (1959). To require the consent in these offers would serve no purpose.

As to Sacramento 064740 and 065291, the appellant, who filed the executed form under protest, states that his lease offers were filed prior to the amendatory law and that the applications should be processed under the law then in effect.

This contention is not correct. The records show that the offers were filed subsequent to the amendatory law and, of course, are subject to the terms and conditions of these amendments as enacted September 2, 1960.

Accordingly, the decisions of the Manager are correct as modified and are hereby affirmed. Mr. Miller is allowed 30 days from receipt or notice hereof to advise the land office to have the executed consent forms considered without any qualifications.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00 for each case. In taking an appeal there must be strict compliance with the regulations.

G. H.

Appeals Officer

Enclosures

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
SS(California)
LO(Sacramento)
AA-LM
Minerals Staff Officer (4)
U.S.G.S. (4)
Each Case File
Attorney's Reading File
Permanent File
AO Reading File
WJ

appeal to Sec. Index 7-13-61

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.

APR 18 10 18 AM 1961

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:

Sacramento 042128
5.04g

March 14, 1961

DECISION

James Petrini, Assignee : Oil and Gas

Decision Reversed; Case Remanded

This is an appeal from a decision of the Chief, Minerals Adjudication Unit, Sacramento, dated August 26, 1960, which modified his previous decision of July 29, 1960, and denied approval of a partial assignment of the above-noted oil and gas lease, issued effective August 1, 1950, and regularly extended for five years to August 1, 1960, under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the partial assignment was not accompanied by the assignor's oil and gas lease bond for the protection of the surface right owner. The lease was held to have terminated by operation of law.

A partial assignment was filed on June 22, 1960, assigning the SE¼SE¼ sec. 2, T. 22 S., R. 15 E., MD Mer., California out of base lease Sacramento 041228. Of the lands remaining in the base lease, the SW¼ sec. 20, T. 22 S., R. 16 E., MD Mer., California, was patented with oil and gas reserved to the United States under the Act of July 17, 1914 (30 U.S.C., 1958 ed., sec 121).

The Superior Oil Company, the operator under a drilling and operating agreement approved by the Bureau on January 3, 1945, covering the base lease, maintains a nation-wide bond in the amount of $150,000. On June 22, 1960, a partial release and surrender of the agreement was accepted as to the SE¼SE¼ sec. 2, T. 22 S., R. 15 E., MD Mer., California.

In the land office decision of August 26, 1960, it was held that a $1,000 bond is required to protect the interests of the surface right owner of the SW¼ sec. 20, T. 22 S., R. 16 E., MD Mer.; and that the partial assignment is properly denied and the lease expired by operation of law on July 31, 1960.

The Nation-Wide oil and gas bond (form 4-1167 (July 1951)) executed by the Superior Oil Company reads in part:

> "* * *as principal, and * * *as surety, are held and firmly bound unto the United States of America in the sum of $150,000, lawful money of the United States, which sum may be increased or decreased by a rider hereto executed in the same manner as this bond, for the use and benefit of (1) the United States, (2) any owner of a portion of the land subject to the coverage of this bond, who has a statutory right to compensation in connection with a reservation of the oil and gas deposits to the United States, * * *."

Regulation 43 CFR 192.100 reads in pertinent part:

> "* * *(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights. * * *(e) In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage * * *."

The regulations are clear. Bond coverage, as required by regulation 43 CFR 192.100 (b) and supplied by the operator's nationwide $150,000 bond, still in effect, as provided by 192.100(e) was sufficient for the protection of the surface right owner.

Regulation 43 CFR 192.141(c) reads in part:

> " * * *Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record for the lease interest retained by said assignor, if the bond, by its terms, does not contain such consent * * *."

The Nation-Wide bond posted by the assignor reads that:

> " * * *the surety hereby waives any right to notice of, and agrees that this bond shall remain in full force and effect notwithstanding: 1. A transfer or transfers, either in whole or in part, of any or all of the leases, or of the operating agreements, and further agrees to remain bound under this bond as to the interests either in the leases or in the operating agreements, or in both, retained by the principal when the approval of the transfer or transfers become effective.***"

Accordingly, the decision of the Chief, Minerals Adjudication Unit, Sacramento, is reversed and the record is remanded through the Bureau's State Supervisor for appropriate action in consonance with this decision.

Appeals Officer

DISTRIBUTION:

Mr. James Petrini (Regular Mail)
Anna W. Tuttle (Regular Mail)
Minerals Staff Officer (4)
Geological Survey (3)
AA-1
SS(California)
LO(Sacramento)
Case File
Attorney's Reading File
Permanent File
AO Reading File
JBJ

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APR 18 1961
BUR. OF LAND MGMT.
STATE OFFICE
SACRAMENTO, CALIF.

appeal to sec

Dismissed A-28964
9-19-62

DEPT. OF INTERIOR
SACRAMENTO, CAL.

APR 18 10 00 AM 1961

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

Sacramento 041538
5.04g

March 14, 1961

Certified Mail
Return Receipt Requeste

DECISION

Loretta Inghram, :
Lessee and Assignor :
: Oil and Gas
Standard Oil Company of :
California :
Operator and Assignee :

Decision Affirmed

Loretta Inghram and Standard Oil Company have appealed from a decision of the Land Office, Sacramento, dated April 28, 1960, which denied approval of a partial assignment of oil and gas lease Sacramento 041538 issued effective April 1, 1950, and regularly extended to April 1, 1960, under the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C., 1958 ed., sec. 226), because the assignment was not accompanied by the assignor's bond for the protection of the surface owners. The lease was held to have terminated by operation of law on March 31, 1960.

The record reveals that Sacramento 041538 embraced the NW¼ sec. 20, T. 26 S., R. 21 E., MDM, California. The partial assignment covered all of the NW¼ except the NE¼NW¼. The NE¼NW¼ was patented with oil and gas reserved to the United States under the act of July 17, 1914 (38 Stat. 509; 30 U.S.C. 1958 ed., sec. 121) and was covered by the operator's nation-wide bond under an operating agreement as required by 43 CFR 192.100(b) as provided by 192.100(e) until the agreement was terminated on January 20, 1960. The partial assignment, filed on February 23, 1960, was not accompanied by the assignor's bond for the protection of the surface right owners as to the NE¼NW¼.

The appellants contend, in substance, that the act of July 17, 1914, supra, does not require a bond and that liability under the assignee's nation-wide bond was still effective as to the NE¼NW¼.

The appellants' contentions are without merit. The law, the terms of the lease and the Department's regulations all clearly indicate that a bond is required. Furthermore, the Department has held that: "* * * the requirement of a bond for the protection of the owners of surface rights is imposed by the act of July 17, 1914, supra, as well as by the Department's regulation, and is therefore mandatory. * * *." Duncan Miller, A-27567 (April 29, 1958).

Regulation 43 CFR 192.100(b) requires in part: "Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights. * * *." This provision is incorporated into and made part of the terms of the lease. (See last paragraph Sec. 2 (a) of the lease form 4-213).

Regulation 43 CFR 192.141(e) reads in part: "The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment or sublease is approved. If the assignment or transfer is not approved, their obligation to the United States shall continue as though no such assignment or transfer had been filed for approval. * * *." It is obvious that a lessee/assignor, being in possession of a signed copy of his lease, at all times is chargeable with notice of the mandatory requirement as to furnishing of a bond to protect the surface right owners.

An examination of the bond form (4-1167) discloses that the liability of the surety under a nation-wide bond is limited to the principal as: lessee; being an approved holder of operating rights in all or part of the lands covered by such leases under operating agreements with the lessees; and as designated operator or agent under such leases pending approval of an assignment or operating agreement. Thus, the assignee's operating agreement as to the NE¼NW¼ having terminated on January 20, 1960, the assignee had no interest in the land either as a leasehold or under an operating right and the nation-wide bond would therefore fail to cover these lands.

The last day for timely filing of a bond to complete the assignment papers was within the eleventh month of the last year of the 5-year extended term of the lease, i.e., during February, 1960. Franco Western Oil Company et al., 65 I.D. 316, 427 (1958). The assignor, therefore, did not comply with the mandatory requirements of the regulations for filing a bond, 43 CFR 192.141(c).

It has been well established that incomplete proposed assignments are ineffective to entitle the parties to the two-year extensions provided under law. Cf. Central Commercial Company et al., BLM 010204 (May 15, 1958); Herbert Herff et al., Santa Fe 078481 (July 18, 1956).

The parties adversely affected by this decision are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Appeals Officer

Enclosure

DISTRIBUTION:

E. A. Hansen, Assistant Manager, Standard Oil Company of California, (Certified Mail)
Loretta Inghram (Certified Mail)
Minerals Staff Officer (4)
Geological Survey (3)
AA-1
SS (California)
LO (Sacramento)
Case File
Attorney's Reading File
Perm. File
AO Reading File
JBJ

appeal to Sec. Index 7-31-61

DEPT. OF INTERIOR
SACRAMENTO, CAL.

APR 17 10 00 AM 1961

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

DOCKET FILES

In reply refer to:

Los Angeles 0164190
0164353
0164507
0166328
0166377
0166417
0166459
5.04g

March 16, 1961

Certified Mail
Return Receipt Requested

DECISION

Jack Marantz	:	
E. Baden Powell	:	Oil and Gas
Marvel Petroleum Corporation	:	
Jean Marvin Powell	:	

Decisions Affirmed as Modified

The above-identified parties have appealed from decisions of the Chief, Mineral Adjudication Unit, dated January 5, 1961, requiring the offerers, in the above-noted noncompetitive oil and gas lease offers, to consent, by executing form 4-1558 (December 1960), to the amendments of the lease terms in their offers, as shown therein, in order to comply with and to be bound by all the provisions of Public Law No. 86-705 approved September 2, 1960.

The appellants, who filed the executed forms under protest, state that their offers were filed prior to the amendatory law, which fact is verified by the record, and they contend that their applications should be processed under the law then in effect.

An applicant for a noncompetitive oil and gas lease who filed his offer prior to the amendment of the Mineral Leasing Act of September 2, 1960, Public Law No. 86-705 (74 Stat. 781) has no right to have a lease issued to him after that date subject to the provisions of the Mineral Leasing Act as it existed prior to the amendments of that date, and the Secretary has no authority to issue a lease after September 2, 1960, free from the amendments made on such date merely because the offer for the lease was filed prior to that date. Cf. United Manufacturing Company et al, 65 I.D. 106 (1958).

Accordingly, the decisions of the Chief, Mineral Adjudication Unit, were correct and they are hereby affirmed. The appellants are allowed 30 days from receipt hereof to advise this office to have their executed form consent considered without any qualifications or to appeal to the Secretary of the Interior in accordance with the regulations 43 CFR Part 221, as amended. See enclosed form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00 for each case appealed. In taking an appeal there must be strict compliance with the regulations.

G. H. Furr

Appeals Officer

Enclosures

DISTRIBUTION:

Jack Marantz (Certified Mail)
E. Baden Powell (Certified Mail)
Marvel Petroleum Corporation (Certified Mail)
Jean Marvin Powell (Certified Mail)
Minerals Staff Officer (4)
USGS (3)
Asst to SS (Los Angeles)
SS (California)
LO (Los Angeles)
AA-1
Each Case File
Permanent File
Attorney's Reading File
AO Reading File
WJ

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BUR. OF LAND MGMT.
STATE OFFICE
SACRAMENTO, CALIF.
1 2 3 4 5 6 7 8 9 10 11 12

(10)

appeal to Sec

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DEPT. OF INTERIOR
SACRAMENTO, CAL.

APR 11 2 03 PM 1961

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:

Sacramento 037552-C
5.04g

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

March 31, 1961

affirmed A-28847
5-7-62

Certified Mail
Return Receipt Requested

DECISION

James P. Psaltis	:	Oil and Gas

Decision Affirmed as Modified

This is an appeal from a letter decision by the Manager, Sacramento Land Office, dated May 17, 1960, declaring that the above-noted oil and gas lease had terminated by operation of law on April 30, 1960.

The record reveals that base lease Sacramento 037552 was issued pursuant to the provisions of the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226), effective May 1, 1948, and regularly extended for five years from May 1, 1953. Leases Sacramento 037552-A and 037552-B were created by partial assignments out of the base lease, approved effective September 1, 1955. According to a report from Geological Survey dated May 27, 1958, production was obtained on lands included in Sacramento 037552-A on April 30, 1958. The Land Office Manager by decision of August 12, 1958, approved a partial assignment of Sacramento 037552-A, effective May 1, 1958, creating lease Sacramento 037552-C, within which the producing lands were situated. The decision stated that lease 037552-C "is considered extended for two years and so long thereafter as oil or gas is produced in paying quantities." However, the Director had previously held that the lease was extended for so long as production was had in paying quantities. See Director's decision, Betty Glassburn, Sacramento 055758 (April 15, 1959).

The record shows that all of the wells on lease 037552-C had been properly plugged and abandoned as of August 1959, with final abandonment approved November 25, 1959, and no drilling or reworking operations were conducted until the latter part of April 1960 when the appellant began drilling operations without approval and under no title of authority.

On April 13, 1960, the record titleholder of lease 037552-C, filed an assignment of all of its interest in favor of the appellant. This assignment was not approved; consequently, this appeal resulted.

Appellant contends that lease 037552-C did not terminate by operation of law on April 30, 1960, and that the assignment from the record titleholder to the appellant filed on April 13, 1960, should be approved effective May 1, 1960. Appellant asserts, in substance, that a lease continued by production does not get an extension to any fixed time but rather its expiration occurs either on (1) cessation of production (2) the lack of a well capable of production or (3) lack of reasonably diligent drilling or reworking operations.

The Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226) reads in pertinent part: "* * * Any lease issued under said sections which is subject to termination by reason of cessation of production shall not terminate if within sixty days after production ceases, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during such period of nonproduction. * * *." Regulation 43 CFR 192.121(a), issued pursuant to the Mineral Leasing Act, as amended, supra, provides: "A lease which is in its extended term because of production shall not terminate upon cessation of production if, with 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction."

The appellant concedes that there was clearly cessation of production and just as clearly there was not a shut-in well capable of production and, consequently, the only way the lease could be carried as a producing lease was by diligent drilling or reworking operations.

Both the record and the material submitted by the appellant fail to show that there have been operations of any kind on the subject leasehold since August 1959 until appellant, without authorization, commenced drilling operations in the latter part of April 1960. Even if the appellant had authorization to operate upon the leasehold, the requirements of the Mineral Leasing Act and the regulations were not met, i.e., that upon cessation of production, a lease extended by production shall not terminate if within 60 days thereafter reworking or drilling operations on the leasehold are commenced and thereafter conducted with reasonable diligence during the period of nonproduction.

On the date the proposed assignment was filed (April 13, 1960), the assignor had nothing to assign inasmuch as the lease was extended only so long as production was had in paying quantities and reworking and drilling operations were not commenced on the leasehold within 60 days after cessation of production (August 1959).

Appellant also contends that where a lease is known to contain valuable deposits of oil or gas in an undefined field, it can only be canceled by court order and also the lessee was entitled to notice where he fails to comply with the Mineral Leasing Act and the regulations. However, these contentions apply to the cancellation of a lease, not to the termination by operation of law, as in the instant case.

In view of the above, the decision of the Manager is hereby affirmed as modified.

Mr. James P. Psaltis is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Appeals Officer

Enclosure

DISTRIBUTION:

Mr. V. D. Manville, Attorney at Law (Certified Mail)
Mr. Lewis E. Hoffman, Attorney at Law (Certified Mail)
Mr. James P. Psaltis (Regular Mail)
Hon. B. F. Sisk, House of Representatives
AA-1
SS (California)
LO (Sacramento)
Minerals Staff Officer (4)
Geological Survey (3)
Case File
Attorney's Reading File
Permanent File
AO Reading File
JBJ

DEPT. OF INTERIOR
SACRAMENTO, CAL.

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LAND MANAGEMENT
LAND OFFICE

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SACRAMENTO, CALIF.

appeal to Sec. Index 7-31-61

(10) affirmed A-28973
3-26-62

9 A-28909 6-15-62

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.

APR 24 10 00 AM 1961

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:
Anchorage 042329 etc.,
Wyoming, Los Angeles,
and New Mexico. 1/

April 4, 1961

Certified Mail
Return Receipt Requested

DECISION

Milton H. Lichtenwalner et al.	:	Oil and Gas

Decisions Affirmed; Re-Consent to Act of September 2, 1960

The above-named parties have appealed from separate decisions 1/ requiring the offerors, in the above-noted noncompetitive oil and gas lease offers, to consent, by executing form 4-1558 (December 1960), to the amendments of the lease terms in their offers, as shown therein, in order to comply with and to be bound by all the provisions of Public Law No. 86-705 approved September 2, 1960.

The appellants state that their offers were filed prior to the enactment of the amendatory law, which fact is verified by the record with the exception of Los Angeles 0168838 and 0168841 (filed subsequent to the act), and they contend that their applications should be processed under the law then in effect.

An applicant for a noncompetitive oil and gas lease who filed his offer prior to the amendment of the Mineral Leasing Act by the act of September 2, 1960, Public Law No. 86-705 (74 Stat. 781), has no right to have a lease issued to him after that date subject only to the provisions of the Mineral Leasing Act as it existed prior to the amendments of that date. The Secretary has no authority to issue a lease after September 2, 1960, free from the amendments made on such date merely because the offer for the lease was filed prior to that date, and this applies also to offers filed after that date. Cf. United Manufacturing Company et al., 65 I.D. 106 (1958).

Accordingly, the involved decisions are correct and they are hereby affirmed.

The appellants are allowed 30 days from notice hereof, in which to comply with the consent requirements failing in which the offers will be rejected; or they may appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing

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1/ See attached appendix for serial numbers of subject offers, dates offers were filed, Land Offices and date of decisions, and names and addresses of the offerors.

fee will be computed on the basis of $5.00 for each case included in the appeal. In taking an appeal there must be strict compliance with the regulations.

A. H. Furr

Appeals Officer

Enclosure

DISTRIBUTION:

Mr. Edgar Paul Boyko, Attorney at Law (Certified Mail)
Mr. W. S. McCabe (Certified Mail)
Mr. Joseph A. Egle (Certified Mail)
Great River Oil Co. (Certified Mail)
Mr. Morris Kline (Certified Mail)
Mr. Duncan Miller (Certified Mail)
Mrs. Grace E. Bloomer (Regular Mail)
Mr. Milton H. Lichtenwalner (Regular Mail)
Joe T. & Thelma L. Campbell(Regular Mail)
George E. & Mary Helen Hale (Regular Mail)
Greater Western Development Co. (Regular Mail)
Roy W. Ferguson (Regular Mail)
Roland L. Rettig (Regular Mail)
Evelyn M. Rettig (Regular Mail)
Thelma Ross (Regular Mail)
Leslie Wright (Regular Mail)
Petroleum Development Co. (Regular Mail)
Miriam Hilscher (Regular Mail)
Harold Koslosky (Regular Mail)
C. Jos. Multhauf (Regular Mail)
B. Alden Smith (Regular Mail)
William D. Collister (Certified Mail)
Minerals Staff Officer (4)
USGS (3)
SS (Wyoming)
LO (Cheyenne)
SS (California)
LO (Los Angeles)
SS (New Mexico)
LO (Santa Fe)
OS (Alaska)
LO (Anchorage)
AA-1,3, and 4.
Case File
Permanent File
Director's Reading File
Attorney's Reading File
AO Reading File
WJ

APPENDIX

Serial Nos. of Subject offers	Dates Offers Filed	Land Offices & Dates of Decisions	Names and Addresses of Offerors
		Anchorage	
Anchorage 042392	3-12-1958	2-13-1961	Milton H. Lichtenwalner 523 3rd Avenue Anchorage, Alaska
Anchorage 042995	4-24-1958	2-14-1961	W. S. McCabe 815 6th Street West Calgary Alberta, Canada
Anchorage 050976 through 050978	1-11-1960	2-15-1961	George E. & Mary Helen Hale P. O. Box 846 Anchorage, Alaska
Anchorage 050979	1-11-1960	2-15-1961	Roland L. Rettig Evelyn M. Rettig c/o Greater Western Development Co. P. O. Box 846 Anchorage, Alaska
Anchorage 050981	1-11-1960	2-14-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 050983 through 050994	1-11-1960	2-14-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 051004	1-12-1960	2-14-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 051125 and 051126	1-27-1960	2-15-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 051223 through 051225	2-11-1960	2-15-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 051287	2-19-1960	2-14-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska

Anchorage 051308	2-23-1960	2-15-1961	Leslie Wright c/o Petroleum Development Co. P. O. Box 659 Anchorage, Alaska
Anchorage 051517 through 051523	3-25-1960	2-15-1961	Thelma Ross P. O. Box 846 Anchorage, Alaska
Anchorage 052780	8-8-1960	2-15-1961	Miriam Hilscher c/o Greater Western Development Co. Box 846 Anchorage, Alaska
Anchorage 052781	8-8-1960	2-21-1961	Harold Koslosky c/o Koslosky Development Co. 434 4th Avenue Anchorage, Alaska
Wyoming 0105323	5-17-1960	Cheyenne 1-9-1961	Joseph A. Egle 4910 West 71st Terrace Prairie Village 15, Kansas
Wyoming 0108495	5-23-1960	1-4-1961	Great River Oil Co. 1211 Ft. Worth National Bank Building Fort Worth, Texas
Wyoming 0110671	5-23-1960	1-9-1961	Joseph A. Egle 4910 West 71st Terrace Prairie Village 15, Kansas
Wyoming 0117791	7-25-1960	1-12-1961	Morris Kine P. O. Box 916 Cheyenne, Wyoming
Los Angeles 0167387	5-25-1960	Los Angeles 1-13-1961	Duncan Miller Box 728 Boulder City, Nevada
Los Angeles 0168429	7-25-1960	2-2-1961	Duncan Miller Box 728 Boulder City, Nevada

Los Angeles 0168838	9-26-1960	2-6-1961	Duncan Miller Box 728 Boulder City, Nevada
Los Angeles 0168841	9-26-1960	2-6-1961	Duncan Miller Box 728 Boulder City, Nevada
New Mexico 039714	12-12-1957	Santa Fe 2-6-1961	Duncan Miller Box 728 Boulder City, Nevada
New Mexico 039716	12-12-1957	2-10-1961	Duncan Miller Box 728 Boulder City, Nevada
New Mexico 0116575	7-6-1960	1-18-1961	Grace E. Bloomer 955 Washington Denver 3, Colorado

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appeal to Sec
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Sacramento 063697
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Washington 25, D. C.

April 11, 1961

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DECISION

Richard P. DeSmet : Oil and Gas

Decision Affirmed

This is an appeal from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office, dated February 13, 1961, rejecting the above-noted oil and gas lease offer filed August 11, 1960, because the lands were subject to simultaneous filings only in accordance with regulation 43 CFR 192.43.

Appellant contends that the lands embraced in his offer were formerly in leases which were improperly extended by partial assignment filed in the last month of their extended 5-year term. (By virtue of a partial assignment filed July 14, 1958, approved by decision of July 17, 1958 and effective August 1, 1958, these leases were extended for two years ending July 31, 1960)

On its face, it is apparent that this appeal is, in essence, an attack upon the validity of the Department's supplemental decision of September 30, 1958, in the case of Franco Western Oil Company et al., 65 I.D. 427. The Department has previously announced that it is standing firm on the supplemental decision. Duncan Miller, A-28093 (October 30, 1959).

In view of the above, it was proper to reject the appellant's offer and the decision of the Chief, Minerals Adjudication Unit is hereby affirmed.

Mr. DeSmet is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Appeals Officer

Enclosure

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In reply refer to: appeal to Sec.
Sacramento 063481
6.05c
affirmed A-29129
1-10-63

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DECISION

July 11, 1961

Gerald Breslauer : Oil and Gas

Decision Affirmed

This is an appeal from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office dated April 10, 1961 rejecting the above-noted oil and gas lease offer filed July 25, 1960, because it was not accompanied by a signed statement that the offeror is the sole party in interest in the offer and the lease, if issued.

Appellant admits that the application was not accompanied by a statement of interest as provided for in regulation 43 CFR 192.42, but contends that such regulation was not intended to make the rejection of a lease offer mandatory for failure to make the sole party in interest statement.

In Genia Ben Ezra et al., 67 I.D. 400 (1960), the Department held that the sole party in interest requirement is mandatory and that an offer which does not include information showing whether an offeror is the sole party in interest is defective and must be rejected without priority.

The decision appealed from is affirmed.

Mr. Breslauer is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

John B. Piccolo
Acting Chief, Division of Appeals

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October 16, 1961

DECISION

Honolulu Oil Corporation : Oil and Gas
Assignor : Sacramento 065641 et al

Tidewater Oil Company, et al :
Assignees :

Assignments of Oil and Gas Lease Interests and of Production Payment Conditionally Approved.

By Conveyance dated October 3, 1961 the Honolulu Oil Corporation sold, assigned, and transferred to the Tidewater Oil Company its rights and interests in certain assets, properties and rights and by Assignments of the same date transferred all or part of its interests in certain Federal oil and gas leases, as more particularly described in Exhibit One-B and Exhibit One-W, which are attached to and made a part of said Assignments. There was, however, expressly excepted from the assignment the California Production Payment which is defined in the Conveyance and affects only those Federal leases described in Part One of Exhibit One-B.

Under date of October 5 a request for approval of the assignments was filed with this office, together with payment of a $10 filing fee for each lease involved. Tidewater has filed satisfactory evidence of its qualifications to take and hold the assigned lease interests and has on file with this office a $150,000 nationwide bond covering its obligations under public domain and acquired land oil and gas leases issued under the Mineral Leasing Acts of 1920 and 1947. The assignee has also agreed that the obligation to pay overriding royalties or payments out of production created by the California Production Payment shall be subject to the limitations prescribed in 43 CFR 192.83.

The assignments to the Tidewater Oil Company, consisting of an undivided one-half of the interest owned by Honolulu in leases located in the State of Alaska (Division 1 of Exhibit One-W) and the entire interest owned by Honolulu in the remaining leases identified in said Exhibits One-W and One-B, are hereby conditionally approved, subject to verification by the appropriate land office of Tidewater's qualifications with respect to acreage holdings, as well as Honolulu's ownership of the lease interests being assigned.

Three executed counterparts of the Assignments, together with a conformed copy for each lease involved, are being forwarded to the Anchorage, Sacramento, and Los Angeles Land Offices which have jurisdiction over the leases affected by said assignments. Upon receipt of these documents, each land office is directed to make the verification of assignee's acreage holdings, etc. as herein indicated and, by supplement to this decision, to advise the parties of the final approval of the assignment, which approval shall be effective as of the first day of the month following receipt in that office of the three executed counterparts of the Assignment.

Concurrently with the assignments of lease interests to Tidewater, Honolulu assigned the California Production Payment, as provided in Part II of the Conveyance of October 3, 1961, to the Albantu Oil & Gas Corporation, Morlyn Oil Company, Long Point Corporation, and the Calprintz Corporation. The undivided fractional interest in said California Production Payment conveyed and assigned to each of the assignee corporations is set forth in Article Seventh, Part II of the Conveyance.

As prescribed by the regulations 43 CFR 192.3(b), parties owning a royalty or other interest determined by or payable out of a percentage of production from an oil and gas lease will be charged with a similar percentage of the total lease acreage. In accordance with the regulations 43 CFR 192.141(a)(1), a single application requesting approval of the assignment of the California Production Payment has been filed by the assignee corporations, together with a filing fee of $10.

The showing of qualifications of each of the assignees complies with the applicable regulations and the interest assigned is subject to the limitations on payments out of production prescribed in 43 CFR 192.83. The assignment of the California Production Payment is hereby conditionally approved, subject to verification by the appropriate land office of the assignees' acreage holdings. As indicated by Exhibit A of the Conveyance of October 3, 1961 and by Part One of Exhibit One-B of the Assignment of the same date, the production payment affects only certain of the Federal leases under the jurisdiction of the Sacramento Land Office. Upon verification of the assignees' acreage holdings, that office should notify the assignees of the final approval of the assignment.

In addition to the copies of the assignments to Tidewater, the Anchorage, Sacramento, and Los Angeles Land Offices are being furnished a copy of the Conveyance of October 3, 1961. The Sacramento Land Office is also being furnished a copy of the Mortgage and Deed of Trust and Assignment of Production dated October 11, 1961, securing the California Production Payment loans, for record purposes only. A receipt for the filing fees paid in connection with the foregoing assignments was issued under Accounting Advice No. 202292 dated October 6, 1961, a copy of which is being filed with case record BLM-A 046003 (Alabama) for future reference purposes.

Max Caplan

Max Caplan
Chief, Division of Minerals

cc:
Assignor) c/o Chapman, Wolfsohn and Friedman
Assignees) Pennsylvania Building, Washington 4, D. C.
Geological Survey
Anchorage LO
Sacramento LO
Los Angeles LO

appeal to be affirmed A-29295 ap 2-25-63

20

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SACRAMENTO, CAL.
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In reply refer to:
6.05c
Sacramento 054969

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October 18, 1961

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DECISION

Duncan Miller	:	Oil and Gas

Decision Affirmed

Duncan Miller has appealed from a decision of the Sacramento Land Office, dated August 9, 1961, requiring him to consent to the amendments of the lease terms in his above-noted lease offer filed November 12, 1957, in order to comply with and be bound by all of the provisions of Public Law 86-705 approved September 2, 1960.

Mr. Miller contends, in substance, that there is nothing in the law which suggests that a retroactive interpretation is to be followed and, accordingly, that the lease should be issued pursuant to the terms of the lease offer and the existing laws at the time the offer was filed.

An applicant for a noncompetitive oil and gas lease who filed his offer prior to the amendment of the Mineral Leasing Act by the Act of September 2, 1960, Public Law No. 86-705 (74 Stat. 781), has no right to have a lease issued to him after that date subject only the provisions of the Mineral Leasing Act as it existed prior to the amendments on that date. The Secretary has no authority to issue a lease after September 2, 1960, free from the amendments made on such date merely because the offer for the lease was filed prior to that date. Cf. United Manufacturing Company et al., 65 I.D. 106 (1958).

Accordingly, the decision appealed from is considered correct and is hereby affirmed.

Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman
Legal Assistant
Division of Appeals

Enclosure

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appeal to Sec
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7-1-63

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6.05c
Sacramento 067193

November 15, 1961

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DECISION

Duncan Miller	:	Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office, dated July 26, 1961, which held the above-noted oil and gas lease offer filed under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226), for rejection, unless a bond in the amount of $1,000.00 was furnished for the protection of the surface owners whose land was patented with a reservation of oil and gas to the United States pursuant to the act of July 17, 1914 (30 U.S.C., 1958 ed., sec. 121.122).

The requirement of the bond under the law, in this instance, is not in dispute. However, Mr. Miller contends that a "lessee should be allowed to place the bond using as security, negotiable security, deposited with a bond for another lease in the same office."

The appellant's contentions are without merit. The negotiable security accompanying the personal bond as set forth in 43 CFR 192.100(d) is in a sum equal at their par value to the amount of the bond and covers the lands in that particular lease. The negotiable security under that personal bond cannot then be transferred to secure another personal bond on lands under another lease unless the first obligation is extinguished.

Accordingly, the decision of the Chief, Minerals Adjudication Unit, is without error and it is hereby affirmed.

Mr. Miller is allowed 30 days from receipt of notice hereof within which to furnish bond coverage as required by the regulation 43 CFR 192.100, failing in which the case will be finally closed; or Mr. Miller may appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman
Legal Assistant
Division of Appeals

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appeal to Sec
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4-29-63

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December 6, 1961

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DECISION

Duncan Miller	:	Oil and Gas

Decision Affirmed

This is an appeal from a decision of the Manager, Sacramento Land Office, dated September 15, 1961, rejecting the above-noted noncompetitive acquired lands oil and gas lease filed November 23, 1955 because the lands described therein are in the Sacramento National Wildlife Refuge under the jurisdiction of the Fish and Wildlife Service, Department of the Interior, and are not subject to oil and gas leasing except as provided for by the applicable regulations, 43 CFR 192.9.

The appellant contends, in substance, that the regulation 43 CFR 192.9 1/ . was promulgated after his lease offer was filed and that others have had their leases issued for such lands in wildlife refuges while he had properly filed his application the same as they in full satisfaction of the requirements of the regulations and the law.

The lease offer must, however, be considered under the regulations in existence at the time the offer was reached for processing, and not under the provisions of the regulations as they existed prior to the amendment thereof on January 11, 1958. Cf. United Manufacturing Company et al., 65 I.D. 106 (1958). The present amended regulation, 43 CFR 1958 Supp., 192.9(b), provides, in substance,, that no offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases issued, except where it is determined by the Geological Survey that those lands defined as not available for leasing are subject to drainage in which case the Bureau of Land Management, with

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1/ 43 CFR 192.9 was revised by Circ. 1990, 23 F.R. 227, January 11, 1958.

1/9/62 - ~~June, when file returned from D.C. may I please have this copy for my personal files.~~

~~Betty Midley~~

the concurrence of the Fish and Wildlife Service, will process an offering inviting competitive bids in accordance with the then existing regulations relating to competitive oil and gas leasing.

The lands in question are defined as not available for leasing. However, even if the lands were determined to be subject to drainage as provided by the amended regulations, they would not be subject to noncompetitive leasing.

In view of the above, the decision of the Manager is correct and is hereby affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman
Legal Assistant
Division of Appeals

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December 21, 1961

DECISION

James P. Witmer : Oil and Gas

Decision Affirmed

Mr. James P. Witmer has appealed from the July 21, 1961, decision of the Acting Manager, Sacramento Land Office rejecting his oil and gas lease offer for lands totaling 541.76 acres. The decision referred to paragraph 9(b) of the instructions on the reverse side of lease offer Form No. 4-1158 as the basis for the rejection. These instructions embody 43 CFR 192.42(g)(ii) which states that an oil and gas lease offer must be rejected and will afford the applicant no priority if the total acreage is less than 640 acres or the equivalent of a section and is not within the exceptions in 43 CFR 192.42(d).

The appellant contends that the regulation 43 CFR 192.42(g)(ii) should not be applied to reject his lease offer in its entirety. He states that the lands included in his offer are in two parcels, one parcel being properly rejected under these regulations, but that a lease should issue for the other parcel which is surrounded by lands unavailable for leasing and therefore comes within the exception in 43 CFR 192.42(d)that "No offer may be made for less than 640 acres except *** where the land is surrounded by lands not available for leasing under the act." He also claims that the intent of the regulations (" to prohibit, through minimum acreage requirements, the practice of *** individuals *** locating solicited clients on 40 acre parcels") would not be circumvented by issuance of such a lease as it would not be possible for an applicant to gain any more, or any less, land than if he filed separate offers for the two parcels. The appellant concludes he is being penalized by the rejection of the entire offer when he could have acquired the one parcel by filing two separate lease offers for all the lands included.

The appellant's arguments are not persuasive. The appellant has interpreted these regulations, in effect, as requiring rejection of the entire offer only where each parcel individually in an offer is not within the exception stated above. We cannot agree that an offer should be considered divisible when applying these regulations. Offers will be rejected in part, if part of the lands are not subject to oil and gas leasing at the time of filing. However, where the lands are all available for leasing there is no basis for rejecting particular lands in the offer.

Though lands in an offer may be noncontiguous and in different sections, the offer is considered singular. The language of the afore-cited regulations referring to the "total acreage" and stating that "an offer" must be rejected, clearly shows that the entire offer must be considered as an entity and must be rejected without priority in these circumstances. Where the offeror of his own volition files for additional lands other than those entirely surrounded by lands not available for leasing under the act, he must satisfy the minimum 640 acre rule as to all of the lands applied for in his offer.

Accordingly, the decision of the Acting Manager was proper and is hereby affirmed. See George E. Conley, New Mexico 0100795 (February 21, 1961); Duncan Miller, Utah 041635 (November 1, 1960).

Mr. Witmer is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See encloed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman

Legal Assistant
Division of Appeals

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April 26, 1962

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DECISION

Eugene Hiller : Oil and Gas

Decision Affirmed

Mr. Eugene Hiller has appealed from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office, dated January 17, 1962 which rejected his oil and gas lease offer Sacramento [illegible] filed February 6, 1958 under the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C., 1958 ed., secs. 351-359). The offer was rejected because the United States Information Agency, the agency having jurisdiction of the lands, reported that the lands are used for the transmission of high power electronic signals emanating from a shortwave broadcasting station (the Voice of America), and oil and gas leasing activities would interfere with this purpose and use.

The appellant states that the agency should give consideration on the basis that small diameter drilling sites are close to the exterior boundaries of the section as shown on maps.

In reply to the appellant's statement of reasons in support of the appeal, the United States Information Agency reported on March 21, 1962 that it requires full and unrestricted use of all of the property under discussion. The entire property is not only required for antennas and feed lines but also is essential to the basic installation; drilling operations on any portion of this property would therefore be detrimental to the best interests of the government.

It has been held that as long as the administering agency objects to issuance of a lease this Department is without authority to lease. Eugene B. Allen, A-27888 (April 12, 1959). Since the United States Information Agency, the agency which is administering the lands, has refused its consent to leasing of the lands for oil and gas purposes, the rejection of the offer was proper. Cf. H. Hillyer, A-25178 (October 16, 1956).

Accordingly, the appealed decision is affirmed.

appeal To Sec - affirmed A29582
8-2-63
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In reply refer to:
6.05c
Sacramento 051819

April 26, 1962

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DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Minerals Adjudication Unit, Sacramento Land Office, dated January 17, 1962 which rejected his oil and gas lease offer Sacramento 051819 filed February 8, 1956 under the Mineral Leasing Act for acquired lands of August 7, 1947 (30 U.S.C., 1958 ed., secs. 351-359). The offer was rejected because The United States Information Agency, the agency having jurisdiction of the lands, reported that the lands are used for the transmission of high power electronic signals emitting from a shortwave broadcasting station for Voice of America, and oil and gas leasing activities would interfere with this purpose and use.

The appellant states that the agency should give consideration on the basis that small designated drilling sites are close to the exterior boundaries of the section in areas not used.

In reply to the appellant's statement of reasons in support of the appeal, The United States Information Agency reported on March 13, 1962 that it requires full and unrestricted use of all of the property under discussion. The agency property is the minimum required for efficient and safe operation of its radio installation. Drilling operations on any portion of this property would therefore be detrimental to the best interests of the government.

It has been held that so long as the administering agency refuses to consent to the issuance of a lease this Department is without authority to issue any lease. Merwin E. Liss, A-27888 (April 13, 1959). Since The United States Information Agency, the agency which is administering the lands, has refused its consent to leasing of the lands for oil and gas purposes, the rejection of the offer was proper. Cf. D. Miller, A-27278 (October 15, 1956).

Accordingly, the involved decision is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman
Chief, Branch of Mineral
Leasing Appeals
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UNITED STATES
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June 7, 1962

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DECISION

Universal Consolidated Oil Company : Oil and Gas

Decision Affirmed

This is an appeal from a decision, dated January 22, 1962, rejecting the above-noted acquired lands oil and gas lease offer because the Department of the Army, the agency having jurisdiction, withheld consent for leasing or development on any portion of the Sharpe General Depot or the Tracy Annex area. A request for reconsideration, which included a proposal by the offeror for leasing only the subsurface below a depth of 500' with directional drilling from adjoining private lands, was denied by a decision dated February 13, 1962 since this proposal was before the Commanding Officer of the Depot when the request was first considered.

The appellant contends that surface operations, as proposed, conducted with respect to wells bottomed under the Sharpe General Depot by directional drilling from adjoining fee lands over which the using agency has no jurisdiction, eliminates the necessity of securing the consent of the using agency since conflicting surface uses are no longer an issue.

The contentions are not persuasive. The Mineral Leasing Act for Acquired Lands (30 U.S.C., 1958 ed., sec. 352) prohibits the Department from issuing an oil and gas lease without the consent of the agency having jurisdiction of the lands, Mervin E. Liss, A-27888 (April 13, 1959), and it does not give the Department the function or responsibility of passing upon the validity or reasonableness of that agency's reasons for withholding consent. D. Miller, A-27378 (October 15, 1956). Furthermore, by letter dated 8 May 1962 the Army repeated its determination to withhold its consent and reported that a review of the real estate records indicates the land involved was acquired for military purposes. It is, therefore, excepted from oil and gas leasing by Section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C., sec. 352) as land "(b) set apart for military or naval purposes."

Accordingly, the decision rejecting the offer is affirmed.

Universal Consolidated Oil Company is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal, there must be strict compliance with the regulations.

John B. Piccolo
Acting Chief
Division of Appeals

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appeal to Sec
affirmed A-29669
9-17-63 Wgs

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Sacramento 070721 ✓

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

June 12, 1962

DEPT. OF INTERIOR
SACRAMENTO, CALIF.
JUN 18 10 00 AM 1962

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

DOCKET FILES

Certified Mail
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DECISION

Robert M. Henderson	:	Oil and Gas

Decision Affirmed

Robert M. Henderson has appealed from a decision, dated May 15, 1962, rejecting his offer to lease for oil and gas for the reason that the offeror did not, within 15 days after filing the lease offer, indicate whether he is or is not the sole party in interest as required by departmental regulation 43 CFR 192.42(e)(3)(iii).

In his statement of reasons on appeal filed on May 18, 1962, the appellant states that he is the sole party in interest and that he inadvertently omitted to mark an "X" on the lease offer form to indicate such interest.

The offer to lease was filed on April 19, 1962.

The appellant's allegation of inadvertence is not disputed, however, the Department has held that an oil and gas lease offer which does not comply with the mandatory provisions of the regulations must be rejected. Genia Ben Ezra et al., 67 I.D. 400 (1960).

Accordingly, the decision appealed from is affirmed.

Robert M. Henderson is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, the amount of the filing fee will be $5.00. In taking an appeal, there must be strict compliance with the regulations.

John B. Ciccolo
Acting Chief
Division of Appeals

Enclosure

DISTRIBUTION:

Robert M. Henderson (Certified Mail)
Conservation Division, Geological Survey (3)
Division of Minerals (4)
SD (California)
LO (Sacramento)
Case File
Perm. File
Appeals Reading File
Attorneys' Reading File
MHS

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:
6.05c
Sacramento 068181

June 25, 1962

Certified Mail
Return Receipt Requested

DECISION

DOCKET FILES

Earle R. Vaughan : Oil and Gas

Decision Affirmed

Mr. Earle R. Vaughan has appealed from a decision of the Chief, Minerals Section, Sacramento Land Office, dated April 10, 1962, which rejected the above-noted oil and gas lease offer filed September 21, 1961, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226), as to the SE¼ Section 18, T. 17 S., R. 11 E., Mount Diablo Meridian, California. The offer, which was filed during the simultaneous filing period, September 18-25, 1961, was rejected because the land is embraced in oil and gas lease Sacramento 068168 which issued effective April 1, 1962, pursuant to Kenneth M. Clancy's offer filed during the same simultaneous filing period and which was awarded a first priority in the public drawing.

The appellant contends that Kenneth M. Clancy's offer was made at a time when the land was unavailable for leasing and that the lease which issued is invalid. He states that he should have been awarded No. 1 priority in the drawing.

The record shows that the SE¼ Sec. 18 was formerly embraced in oil and gas lease Sacramento 050816 which terminated on August 1, 1961, and the lands were posted on the Land Office availability list for simultaneous filings for September 18-25, 1961. Oil and gas lease offer Sacramento 068168 was filed September 22, 1961, during the simultaneous filing period, and drew No. 1 priority for the subject land in the public drawing held on September 29, 1961.

A noncompetitive oil and gas lease must be issued to the first qualified person who submits a proper application for it, if a lease is to be issued for the land, for that person has a statutory preference right to such a lease which must be honored. C. T. Hegwer et al., 62 I. D. 77 (1955). Since a lease has been issued to Kenneth M. Clancy, who was determined to be entitled to the issuance of a lease, Mr. Vaughan's offer was properly rejected. See Joyce A. Cabot et al., 63 I. D. 122 (1956).

Accordingly, the decision is hereby affirmed.

Mr. Earle R. Vaughan is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. In taking an appeal there must be strict compliance with the regulations.

The adverse party to be served in the event an appeal is taken is:

Mr. Kenneth M. Clancy
16550 East Ancep Street
Whittier, California

Frances A. Patton

Chief, Branch of Mineral Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mr. Earle R. Vaughan (Certified Mail)
Mr. Kenneth M. Clancy (Regular Mail)
Division of Minerals (4)
Conservation Branch, U.S.G.S. (3)
Case File
Appeals Reading File
Perm. File
Attorneys' Reading File
WJ

DEPT. OF INTERIOR
SACRAMENTO, CAL.
JUL 2 10 49 AM 1962
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:
6.05c
Sacramento 019740(b)

June 25, 1962

DOCKET FILES

DECISION

Trico Oil and Gas Co. : Oil and Gas

Decision Vacated: Renewal Lease Allowed to Stand

This is an appeal from a decision of the Chief, Minerals Section, Sacramento Land Office, dated May 3, 1962, relating to 20-year oil and gas lease Sacramento 019740(b) and the renewal thereof.

Timely application for a 10-year renewal was filed by the Trico Oil and Gas Company; however, no tender of rental was made with the application for the first year of the renewal term. Nevertheless, a renewal lease was issued on November 14, 1961, effective December 1, 1961. On January 2, 1962, the proper rental was tendered. The land office decision held that because the rental was not timely paid, the renewal lease " automatically terminated December 1, 1961, and the extended term of the original lease expired December 6, 1961 ".

The regulations contemplate the payment of rentals in advance of issuance of a lease or renewal thereof. It would appear, therefore, that the issuance of the renewal lease was premature as the rental due for the first year of the renewal lease term had not been submitted. While the regulations concerning lease renewals do not specify that advance rentals accompany the application and are silent as to the procedure to be followed where rentals are not included with the application (43 CFR 192.61 to 192.63), the land office, in the circumstances, upon consideration of the timely filed renewal application, should have issued a notice allowing a 30-day period within which to submit the annual rental. Such procedure would have been analogous to that provided for where an application for a 5-year extension of an initial 5-year term oil and gas lease is not accompanied by the annual rental for the sixth year. (43 CFR 192.120(c)).

Despite the fact that the appellant in the instant case was not notified to make payment of the advance rental, a renewal lease was issued but since the appellant on its own volition tendered the rentals, the renewal lease issued, effective December 1, 1961, is allowed to stand.

Accordingly, the decision of the land office terminating the renewal lease is hereby vacated.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION

Trico Oil and Gas Company
Division of Minerals (4)
Geological Survey, Conservation Division (3)
SD (California)
LO (Sacramento)
Case File
Perm. File
Appeals Reading File
Attorneys Reading File
JBJ

DEPT. OF INTERIOR
SACRAMENTO, CAL.

AUG 28 1 48 PM 1962

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Sacramento 053589
053597

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

August 22, 1962

DOCKET FILES

DECISION

Union Oil Company of California : Oil and Gas

Decision Reversed

These are appeals from a decision of the Sacramento Land Office, dated June 5, 1962 holding the applications for extensions in the above-noted oil and gas leases for rejection unless additional evidence of the authority of the attorney-in-fact is furnished within 30 days of the receipt of the decision showing that such powers were in full force and effect on the date of execution of the applications.

In February 1962, the Union Oil Company of California, through its attorney-in-fact, Harold H. Stream, filed applications for extensions of leases Sacramento 053589 and 053597. Under Stream's signature on both applications, reference was made to a previous power of attorney in Sacramento 050296.

The land office decision stated that regulation 43 CFR 192.42(e)(3) provides that evidence of authority shall be furnished, where an offer or lease is signed by an attorney-in-fact on behalf of an offeror or lessee. However, it must be borne in mind that the instant cases are concerned with lease extensions, not offers. There is nothing in the regulations which indicates that an agent may act for any one of the three persons specifically authorized to apply for an extension of a lease, 1/ but such recognition is contained in the decisions of the Department and the courts. Herbert R. Lewis, Charlotte L. Murphey, A-26819 (June 30, 1954); Murphey v. McKay, 233 F. 2d 697 (D.C. Cir. 1956); Earl C. Hartley et al., 65 I.D. 12 (1958); D. J. Dowd, A-27956 (June 26, 1959). Since the regulations do not contain an express provision that an attorney-in-fact or an agent may act for the lessee in applying for an extension of his lease, there is, of course, no provision for the furnishing of proof of an agent's authority to act in applying for the extensions at any particular time. See O. C. Green, A-28154(February 1, 1960). It is necessary, of course, that agency be established before extensions of the leases can be granted.

The land office decision does not question the power of attorney on file in Sacramento 050296 but questions whether it is still in force and effect. In order to render effectual the termination of authority

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1/ Regulation 43 CFR 192.120 provides that an application for an extension may be filed by the record titleholder, an assignee whose assignment has been filed for approval or an operator whose operating agreement has been filed for approval.

by the act of the principal before the agency would otherwise terminate, notice of it must, as a general rule, be given to those parties who are affected by it; these parties are the agent himself, and those who, from knowledge of his authority or previous dealings with him, would be likely to deal with him in good faith in ignorance of the termination of the agency and upon the strength of previous authority. See Cooper v. Cooper, 206 Ala. 519, 91 So. 82.

The Department has held that no specific form need be filed to establish agency where an application for extension of an oil and gas lease is filed by another for the record titleholder, it being sufficient to show by substantial evidence that the person applying is acting on behalf of the record titleholder. D. J. Dowd, supra.

Therefore, it is concluded that by reference to the case file in the land office, wherein the power of attorney may be found, and in the absence of evidence of the termination of that power of attorney, there is sufficient evidence in the record to establish an existing agency relationship between the parties. In view thereof, the applications for extensions of leases Sacramento 053589 and 053597 should be processed, all else being regular.

Accordingly, the decision appealed from is hereby reversed and the case records are being returned to the land office through the Bureau's State Director for further processing in consonance with this decision.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION:
Mr. Noble J. Allen, Attorney for Appellant (Regular Mail)
Union Oil Company of California (Regular Mail)
SD (California) with case records Sacramento 053589 and 053597
LO (Sacramento)
Division of Minerals (4)
Conservation Division, Geological Survey (3)
Case Files
Perm. File
Appeals Reading File
Attorneys' Reading File
JBJ

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In reply refer to:
3.05c
Sacramento 042002
042002-A

DEPT. OF INTERIOR
SACRAMENTO, CAL.

AUG 28 1 48 PM 1962

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

August 22, 1962

Certified Mail
Return Receipt Requested

DOCKET FILES

DECISION

Occidental Petroleum Corporation : Oil and Gas

Decision Affirmed

This is an appeal from a decision of the Sacramento Land Office, dated April 6, 1962, denying a request for consolidation of oil and gas leases Sacramento 042002 and 042002-A, filed March 22, 1962, because it was determined that the consolidation would not be advantageous to nor in the best interest of the United States.

Oil and gas lease Sacramento 042002 was issued effective August 1, 1950, pursuant to an application for a new lease based on a preferential right established under oil and gas lease Sacramento 036415 by the provisions of Section 1 of the Act of July 9, 1942 (56 Stat. 726). The lease was issued for a period of five years to South Dome Oil Company covering the $SE\frac{1}{4}$ sec. 21, all sec. 27, $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}$ sec. 35, T. 24 S., R. 19 E., M.D.M., California, containing 1,200 acres. The lease was extended for five years ending July 31, 1960. On April 29, 1960, oil and gas lease Sacramento 042002-A was created by the assignment of the $NE\frac{1}{4}SE\frac{1}{4}$ sec. 35, T. 24 S., R. 19 E., and this action extended the terms of leases Sacramento 042002 and 042002-A for a period of two years from May 1, 1960. Both oil and gas leases are now held by Occidental Petroleum Corporation.

The appellant contends, in substance, that in a Bureau decision, Gusher Field Company, Salt Lake 065557 and 065557-A (October 11, 1960), it was held that consolidation would not be allowed because the lease rentals and royalty rates were not the same in both leases and the lease dates were not adjustable to warrant consolidation. The appellant points out that in the instant case the lease rentals and royalty rates are the same and both segregated portions of the lease bear the same date.

The appellant further alleges that consolidation would be in the best interest of the Government as the lease would be operated as one unit, there would be a single account, and drilling of multiple wells would be avoided. Appellant also contends that lease Sacramento 042002 is extended by regulation 43 CFR 192.144[1] by virtue of a discovery prior to May 1, 1962 that resulted in some 1100 barrels of oil being brought in from April 30, 1962 through May 3, 1962.

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[1] 43 CFR 192.144 reads in part as follows: "(a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period."

A report from Geological Survey states that a discovery in paying quantities was not made on lease Sacramento 042002 and the well has been plugged and abandoned. The appellant's statement of "some 1100 barrels of oil were brought in" is misleading, the words "brought in" actually meaning transported to the leasehold from an outside source. The record indicates these barrels of oil were transported to the leasehold for the purpose of conducting a production test with a Kobe pump.

Inasmuch as lease Sacramento 042002 does not have a well capable of producing oil and gas in paying quantities, lease Sacramento 042002-A is not entitled to a two-year extension pursuant to 43 CFR 192.144(a) and thus it expired by operation of law on May 1, 1962. In view thereof, the question of consolidation is moot.

Accordingly, the decision of the Land Office is hereby affirmed. Occidental Petroleum Corporation is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Lewis E. Hoffman, Attorney for Appellant (Certified Mail)
Mr. H. S. Gilmore, Attorney at Law (Regular Mail)
Occidental Petroleum Corporation (Regular Mail)
SD (California)
LO (Sacramento)
Division of Minerals (4)
Conservation Division, Geological Survey (3)
Case Files
Perm. File
Appeals Reading File
Attorneys' Reading File
JBJ

appeal to Sec

In reply refer to:
3.05c
Sacramento 042928-A
Affirmed A-29525 8-20-6

DEPT. OF INTERIOR
SACRAMENTO, CAL.
MAR 5 2 09 PM 1962
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. D.

Feb.
~~November~~ 20, 1962
Feb. 20, 1962

DOCKET FILES

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Shell Oil Company, Assignor	:	**Oil and Gas**
E. J. Harp, et al., Assignees	:	

Decision Affirmed as Modified

The above-named parties have appealed from a decision of the Manager, Sacramento Land Office, dated September 20, 1961, which denied approval of a partial assignment of oil and gas lease Sacramento 042928-A from Shell Oil Company, assignor, to E. J. Harp, J. B. Boyett and Harp Brothers, Inc., assignees, filed on July 31, 1961. The denial was predicated on the basis that the request for approval of the partial assignment was not accompanied by the bond required under the Act of July 17, 1914, and regulation 43 CFR 192.100(b) as the lands to be assigned were patented with oil and gas reserved to the United States. The assignment was also denied because the assignees failed to comply with the sole statement of interest requirement under 43 CFR 192.140. The decision concluded that since all the papers required were not filed, the incomplete proposed partial assignment was ineffective to afford the parties the additional two-year extension provided by law and the lease expired on August 31, 1961, under the Department's ruling in Franco Western Oil Company, et al., 65 I.D. 316 (1958).

The record shows that the lease issued effective September 1, 1951, and was extended for five years to August 31, 1961. No bond or statement as to the sole parties in interest were filed.

The appellants contend that the assignment was complete when filed and that the bond was not necessarily required because the lands were patented under the Act of December 29, 1916. The records show that the patent was issued under the Act of December 16, 29? 1916, and pursuant thereto the filing of a bond as held by the Land Office was not an immediate requirement so that the lack of a bond was no bar to the approval of the assignment and to this extent the decision of the Manager was incorrect.

However, the application for approval of the partial assignment failed to show whether or not the assignees were the sole parties in interest as required by the regulation, nor was there any information submitted timely in this regard. The appellants even verify this fact by stating that they inadvertently failed to fill in the space concerning this information.

In Genia Ben Ezra, et al., 67 I.D. 400 (1960), the Department held that the sole party in interest requirement is mandatory and that an offer which does not include information showing whether or not an offeror is the sole party in interest is defective and must be rejected, citing McKay vs. Whalenmaier, 226 F. 2nd, 35 (D. C. Cir. 1955). Also see James E. Menor, A-29006 (November 15, 1961). The regulation concerning the sole statement of interest for offers is similar to the regulation for assignments (43 CFR 192.140) and the Department ruling is applicable.

Accordingly, the decision of the Manager is affirmed, as modified.

The appellants are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations.

Dale E. Zimmerman
Legal Assistant
Division of Appeals

Enclosure

DISTRIBUTION:

Shell Oil Company (Certified Mail)
Mr. E. J. Harp (Certified Mail)
J. B. Boyett (Certified Mail)
Harp Brothers Inc. (Certified Mail)
Division of Minerals (4)
USGS (3)
SD (California)
LO (Sacramento)
Case File
Perm. File
Appeals Reading File
Attorneys' Reading File
WJ

DOCKET FILES

JAN 21 1963

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In Reply Refer to:
[illegible]
Sacramento [illegible]

January 9, 1963

DECISION

Standard Oil Company : Oil and Gas
of California :

Decision Vacated; Case Returned

The company named appealed from a decision, dated August 20, 1962, rejecting its simultaneously-filed lease offer in its entirety on the basis that the lands described are not entirely within a six-mile square (43 CFR 192.42(d)).

In transmitting the record on appeal, the Acting State Director reported that re-examination of the official plats of survey reveals the area sought does not exceed six surveyed sections in length or width. He reported further that while the offer was not drawn first at the drawing of simultaneously-filed offers for lands posted January 15, 1962, it included other available lands from the list posted on October 16, 1961, for which no lease was issued.

Accordingly, the decision is vacated and the case record is returned for further consideration.

Francis A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION:
Standard Oil Company of California (Regular Mail)
SO (California) w/ case record Sacramento [illegible]
D. (Sacramento)
Case File
Appeals Reading File
Precedent File
Attorneys' Reading File
[illegible]

-2-

DOCKET FILES

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LAND OFFICE
SACRAMENTO, CALIF.
JAN 21 1963
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UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In Reply Refer to:
6.05c
Sacramento 069586

January 9, 1963

DECISION

Standard Oil Company of California : Oil and Gas

Decision Vacated; Case Returned

The company named appealed from a decision, dated August 10, 1962, rejecting its simultaneously-filed lease offer in its entirety on the basis that the lands described are not entirely within a six-mile square (43 CFR 192.42(d)).

In transmitting the record on appeal, the Acting State Director reported that re-examination of the official plats of survey reveals the area sought does not exceed six surveyed sections in length or width. He reported further that while the offer was not drawn first at the drawing of simultaneously-filed offers for lands posted January 15, 1962, it included other available lands from the list posted on October 16, 1961, for which no lease had issued.

Accordingly, the decision is vacated and the case record is returned for further consideration.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION:
Standard Oil Company of California (Regular Mail)
SD (California) w/ case record Sacramento 069586
LO (Sacramento)
Case File
Appeals Reading File
Permanent File
Attorneys' Reading File
EG

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JAN 21 1963
BUR. OF LAND MGMT.
SACRAMENTO, CALIF.

Reversed & Remanded Appeal to Sec

Mr Dec. A 30021 3-4-64

5-6-63

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APR 1 1963
SACRAMENTO LAND OFFICE

In reply refer to:
6.05c
Sacramento 072766
072809

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

March 21, 1963

DOCKET FILES

Certified Mail
Return Receipt Requested

DECISION

Hugh E. Pipkin :
Raymond J. Stipek : Oil and Gas

Decisions Affirmed

Hugh E. Pipkin and Raymond J. Stipek have appealed from separate decisions of the Chief, Minerals Section, Sacramento Land Office, dated October 23 and 24, 1962, which rejected their respective above-noted oil and gas lease offers. The basis for the decisions was that the lands for which they applied are embraced within 10-year noncompetitive oil and gas lease Sacramento 072582, issued effective November 1, 1962, to Mrs. Verna I. Clancy. Mrs. Clancy was first priority offeror during a simultaneous filing period, August 20-27, 1962, during which the appellants filed their offers.

Appellants contend severally that Mrs. Clancy's offer did not comply with the regulation, 43 CFR 192.42(d), since the lands described in her offer cannot be contained entirely within an area of six-miles square nor entirely within an area not exceeding six surveyed sections in length or width.

The records affirm that the lands within offer Sacramento 072582, containing 662.59 acres, are not embraced within a six-mile square area but an area in excess of six-miles square.

With respect to the alternative provision of the cited regulation, that the lands applied for must be contained within an area not exceeding six surveyed sections in length or width, it is to be noted that the area traversed between the west and east extremities of the land in offer Sacramento 072582 comprises five full sections (secs. 1 and 2, T. 30 S., R. 20 E., and secs. 4, 5 and 6, T. 30 S., R. 21 E.), plus the SE$\frac{1}{4}$NE$\frac{1}{4}$, NE$\frac{1}{4}$SE$\frac{1}{4}$ sec. 3, T. 30 S., R. 20 E., plus the Lots 3 and 4, S$\frac{1}{2}$NW$\frac{1}{4}$, W$\frac{1}{2}$SW$\frac{1}{4}$ sec. 3, T. 30 S., R. 21 E., M.D.M., all of which approximate a total of five and three-quarters sections. Thus the offer is found to describe lands within an area not exceeding six surveyed sections in length or width. This is true despite the fact that the lands applied for are situated in portions of seven sections. The public lands included in the offer are properly construed as the land boundaries of the area applied for, and it is these lands only which must be found to be contained within an area of six surveyed sections in length or width in order for the offer to come within the exception to the six-mile square rule provided for in the cited regulation.

The decisions appealed from are correct, and they are hereby affirmed. Messrs. Pipkin and Stipek are each allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington 25, D. C. The filing fee will be computed on the basis of $5 for each application included in the appeal. If the appeal covers all applications adversely affected by this decision the total filing fee is $10. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken, the adverse party to be served with notice thereof is:

Mrs. Verna I. Clancy
16550 E. Ancep St.
Whittier, California

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mrs. Verna I. Clancy (Regular Mail)
Ely, Duncan and Bennett, Attorneys for Mr. Pipkin (Certified Mail)
Mr. Raymond J. Stipek (Certified Mail)
SD (California)
LO (Sacramento)
Division of Minerals (5)
Each Case File
Permanent File
Appeals Reading File
Attorneys' Reading File
DWG
Cons.Div.,Geo.Sur.(9)

In reply refer to:
6.05c
Sacramento 061251

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

April 26, 1963

DOCKET FILES

DECISION

Duncan Miller : Oil and Gas

Appeal Dismissed

Mr. Duncan Miller appealed from a decision dated December 11, 1962, requiring consent to changes in oil and gas lease terms in order to conform his lease offer to the Mineral Leasing Act Revision of 1960 enacted September 2, 1960 (74 Stat. 781).

By his letter of April 11, 1963, received on April 24, 1963, Mr. Miller submitted for the case record duplicate executed forms of "Consent to Changes in Lease Terms," in accordance with the cited law and the requirements of the decision appealed from. Accordingly, the appeal is dismissed and the case record is being returned to the land office, through the State Director, for further consideration.

Frances A. Patton
Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure:
Case record Sacramento 061251

DISTRIBUTION

Mr. Duncan Miller
SD (California)
LO (Sacramento)
Case File
Permanent File
Appeals Reading File
Attorneys' Reading File
EG

Appeal to Sec
affirmed A-30071
A-30081 4-2-64

DOCKET FILES

In reply refer to:
6.05c
Sacramento 065932
068302

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

May 22, 1963

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision dated October 24, 1962, dismissing his protests against the issuance of oil and gas leases to offerors under higher priority lease offers Sacramento 065932 and 068302, who, in each instance, were either the husband or wife of an offeror for the same land in the same simultaneous drawing. [1]

On appeal Mr. Miller contends, in substance, that a husband and wife are a single entity and that in the public interest they should be limited to a single offer in the same drawing.

It is established that a husband and wife are each entitled as individuals to file lease offers and to hold leases. See Solicitor's Opinion M-36416, 64 I.D. 44 (1957). There is nothing in the records and the appellant has submitted no evidence to show that the offerors here concerned were not acting individually or that either was unqualified to file or to hold a lease. In the circumstances, no inference of impropriety is to be drawn from the facts. See Duncan Miller, A-27457 (June 26, 1957).

Accordingly, the decision appealed from is affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with

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[1] In his protest Mr. Miller stated if lease offers Sacramento 068302 and 068303 of Harold M. Bosworth and Marguerite Bosworth, respectively, were collusively filed, then his offer Sacramento 068348 was entitled to reinstatement, and, further, in another drawing, if Sacramento 065931 and 065932 of James P. Witmer and Joan Witmer were collusive filings, then his offer Sacramento 065912 was entitled to consideration.

RD

the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5 for each protest involved or a total of $10. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error. If an appeal is taken the adverse parties to be served are:

Mrs. Joan Witmer 434 Douglas Building Los Angeles 12, California	Mr. Harold M. Bosworth 4607 Blomquist Drive Bakersfield, California

Frances A. Patton
Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Duncan Miller (Certified Mail)
Adverse Parties
Division of Minerals (5)
Conservation Division, Geological Survey (3)
Appeals List No. 1
EG

appeal to Sec
Reversed A-30090
9-22-64

DOCKET FILES

In reply refer to:
6.05c
Riverside 0540

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D.C.

June 5, 1963

Certified Mail
Return Receipt Requested

DECISION

Richard M. Ferguson : Oil and Gas

Decision Affirmed

Mr. Richard M. Ferguson has appealed from that portion of the decision of the Chief, Mineral Adjudication Unit, Riverside Land Office, dated August 21, 1962, which rejected the above-noted oil and gas lease offer filed February 26, 1962, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226) as to the N½ sec. 25, T. 11 N., R. 24 W., S.B.M., California. The offer, which drew priority in a drawing for simultaneously-filed offers for land posted on the Availability List No. 26 of February 19, 1962, was rejected to this extent because this land was unavailable for leasing, being then embraced in oil and gas lease Los Angeles 089067-A, which was extended due to production of oil first obtained on January 30, 1962. The decision stated that from the land office records it had appeared that Los Angeles 089067-A terminated January 31, 1962, for failure to pay the twelfth year's advance rental, however, payment of advance rental was not required to continue the lease because of the producing well on the leased land (43 CFR 192.121), and that unfortunately, at the time the oil and gas availability list was prepared, the report of the producing well had not been received, thus the land was placed on the list in error.

The appellant contends that Los Angeles 089067-A terminated for failure to pay the twelfth year's rental and that this lease was not producing on January 31, 1962. He states that there could not have been production any earlier than the date of the casing was cemented, which was February 5, 1962. Furthermore, he states that there was no official representative to witness the first production or any official record to show production was obtained any earlier than the date when the casing was cemented, by which time the lease had expired under the automatic termination provisions of the law.

Information received from the Director, U.S. Geological Survey, on May 24, 1963, discloses it was reported to the Taft District Engineer that the Michigan Oil Company had completed well Orloff USL No. 1-25 on January 30, 1962, and it was flowing oil from around the casing which had not been cemented. The District Engineer thereupon checked the conditions at the well on January 31, 1962, and he found the well flowing oil from around the casing. He has described it as not being a large flow of oil but that the well was flowing oil. The District Engineer had approved a program that did not require the cementing of the casing, and he reported the well was completed on January 30, 1962. Since the well was flowing oil from around the casing, it was necessary to repair the well by cementing the casing. The cementing of the casing on February 5, 1962, is considered as repairing, not completing the well.

The report shows further that a production test was made from February 12 through 16, 1962, to determine accurately the productive capacity of the well. The District Engineer witnessed this test and according to his report the least amount of fluid made was 40 barrels per day gross, 4 barrels per day net oil. The District Engineer then used the results of this accurate, witnessed test as the initial production for the well. Therefore, the report concludes that a producible well was completed prior to the end of the lease year and that the District Engineer in his official capacity witnessed this fact.

It having been established that production was obtained prior to the end of the eleventh lease year, Los Angeles 089067-A reverted from a rental paying status to a minimum royalty status and the lease was extended for so long as production continues. Therefore, the land was not available for further leasing, and oil and gas lease offer Riverside 0540 was properly rejected as being in conflict with the outstanding lease. It was error to post the land on the availability list of the land office for simultaneous offers when in fact it was not available for such filing for the reason aforementioned. However, reliance by private persons on erroneous information furnished to them by administrative personnel of the government cannot operate to vest in such persons any right unauthorized by law. Cf. R. M. Harris, A-26215 (July 24, 1951).

Accordingly, the decision appealed from is affirmed.

Richard M. Ferguson is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken the adverse party to be served is:

Michigan Oil Company
2819 H Street
Bakersfield, California

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Richard M. Ferguson (Certified Mail)
Michigan Oil Company
Division of Minerals (3)
U.S.G.S., Conservation Division (3)
Gower Federal Service (1)
Appeals List No. 1
WJ

DOCKET FILES

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JUN 10 1963
SACRAMENTO
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

In Reply Refer to:
6.05c

Sacramento 072694
Oil and Gas

JUN - 6 1963

DECISION

Mr. Joseph A. Johnson
2485 Paradise Drive
Tiburon, California

Withdrawal of Appeal Filed: ☒
May 31, 1963

Relinquishment of Interest in Case Filed: ☐

Appeal Dismissed

In view of the withdrawal ~~or relinquishment~~ noted above, the appeal to the Director, Bureau of Land Management, in this matter is dismissed. The case **is being** returned with a copy of this decision to our State Director~~ for further appropriate action.~~

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

cc: **SD (California) w/case record Sacramento 072694**
LO (Sacramento)

12697-62

DOCKET FILES

appeal to Sec
affirmed A-30071 - 4-2-64
881

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D.C.

In reply refer to:
6.05c
Sacramento 073844

June 10, 1963

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Chief, Minerals Section, Sacramento Land Office, dated January 3, 1963, which dismissed his protest involving offers which drew priority over his above-noted oil and gas lease offer in a drawing of simultaneously-filed lease offers. He had alleged that his was the first qualified offer in that those receiving priority may have been filed in collusion with offers of spouses or others. The decision stated that Mr. Miller had not presented any evidence which if proven would show collusion on the part of any offeror and that he sought to place the burden of showing collusion on the land office.

Mr. Miller contends on appeal that a husband and wife filing for the same lands constitute an association and an association is limited to the filing of a single offer in the same drawing.

The contentions are not meritorious. It is established that a husband and wife are each entitled as individuals to file lease offers and to hold leases. See Solicitor's Opinion M-36416, 64 I.D. 44 (1957). There is nothing in the records and the appellant has submitted no evidence to show that the offerors here concerned were not acting individually or that either was unqualified to file or hold a lease. In the circumstances no interference of impropriety is to be drawn from the facts. See Duncan Miller, A-27457 (June 26, 1957).

Accordingly, the decision appealed from is affirmed.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:

Mr. Duncan Miller (Certified Mail)
Mr. Sam Jamot Brown
Division of Minerals (3)
U.S.G.S., Conservation Division (3)
Appeals List No. 1
Gower Federal Service (1)
WJ

In reply refer to:
6.05c
Sacramento 073711

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D.C.

June 25, 1963

DECISION

Beard Oil Company : Oil and Gas

Case Remanded

Beard Oil Company has appealed from a decision of the Chief, Minerals Section, Sacramento Land Office, California, dated December 28, 1962, which rejected the above-noted noncompetitive oil and gas lease offer filed November 2, 1962. The rejection was based on information that the lands described, lots 7 and 10 sec. 8, T. 30 S., R. 21 E., M.D.M., California, were within an undefined known geologic structure on the date of filing of the offer and were therefore not available for noncompetitive oil and gas leasing.

The appellant filed notice of appeal on January 28, 1962, stating therein its belief that lot 10, above section, township and range, should not be classified as on structure. The appellant has not challenged the rejection of the offer as to lot 7.

After receipt of supplemental data, the Geological Survey has reported that lot 7 was, and lot 10 was not, on structure on the date of filing of the lease offer.

Accordingly, the case record is remanded for further consideration of the offer as to lot 10, and for issuance of lease thereon, all else being regular.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION:
Beard Oil Company
Conservation Division, Geological Survey (3)
Division of Minerals (3)
Gower Federal Service (1)
Appeals List No. 1
DWG

RECEIVED
JUL 5 1963
SACRAMENTO
LAND OFFICE

DOCKET FILES

In reply refer to:
6.05c
Riverside 02363

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

June 26, 1963

Certified Mail
Return Receipt Requested

DECISION

Linnie M. Neal : Oil and Gas

Appeal Dismissed

Mrs. Linnie M. Neal has appealed from a decision of the Manager, Riverside Land Office, dated February 1, 1963, which rejected the above-noted oil and gas lease offer filed December 28, 1962, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226). The offer, which was accompanied with a statement of the offeror listing other persons having an interest and the extent thereof in the offer, was rejected because this statement did not meet the requirements of the pertinent regulation 43 CFR 192.42(e)(3)(iii), and the offeror had not submitted a statement of the other interested persons and their qualifications as required by the regulation.

In her appeal, the appellant does not point out wherein the Manager's decision is believed to be erroneous, she merely states it was impossible to get the statement of interests of all of the other parties in time because one was in the hospital too sick to contact and another could not be reached because she did not have her address. Consequently, the appellant has failed to state reasons for her appeal, as required by the rules of practice, and her appeal is accordingly dismissed. 43 CFR 221.98; Cf. Duncan Miller, 65 I.D. 290 (1958).

Nevertheless, it is to be noted that the requirement under 43 CFR 192.42 (e)(3)(iii) is mandatory and since the offer was not supplemented with the information required by the regulation, the offer was properly rejected. Gerald Breslauer, A-29129 (January 10, 1963).

Mrs. Linnie M. Neal is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mrs. Linnie M. Neal (Certified Mail)
Division of Minerals (3)
USGS Conservation Division (3)
Gower Federal Service
Appeals List No. 1
W.J.

DOCKET FILES

In reply refer to:
6.05c
Los Angeles 0167877

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1963 JUL 22 AM 10 00

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 11, 1963

Certified Mail
Return Receipt Requested

DECISION

Cecil H. Phillips Foss S. Funk	:	Oil and Gas

Decision Affirmed

Mr. Cecil H. Phillips has appealed from a decision dated December 27, 1962, rejecting his above-identified oil and gas lease offer because in Item 6 thereof it was disclosed he had an agreement with Mr. Foss S. Funk (applicant under Los Angeles 0167876 in the same drawing) that if the offer is accepted, Mr. Funk "will ipso facto acquire a 50% interest" therein. The offer was supplemented with a timely separate interest statement by the parties in which the offeror stated he held the full legal title to the offer and would hold such title to any lease issued pursuant thereto, and the designated owner of the 50% beneficial interest in the offer and in any lease issued pursuant thereto furnished a statement of his citizenship and holdings under the Mineral Leasing Act, as amended. The decision noted that similar statements were included in Mr. Funk's lease offer, with respect to Mr. Phillips' acquisition therein of a 50% interest. It was held this arrangement of the offeror served to enhance the opportunity of each of these offerors to obtain a leasehold interest as against individual offerors in the same drawing who did not enter into such an agreement, and since an individual, association or corporation may file only one offer for participation in a particular drawing, it was necessary to reject this offer.

The appellant denies that the agreement entered into with Mr. Funk invalidates his offer, contending, in substance that they each had a right to file a lease offer in the drawing and to agree that if either received first priority in the drawing he would sell the other a 50% interest in the offer.

Under the agreement referred to both Mr. Phillips and Mr. Funk are interested parties in the lease offer submitted by each of them. Therefore, two offers having been filed for the same land in the same drawing, each party had two chances of obtaining a leasehold interest as against other offerors in the same drawing. In the circumstances the offer was properly rejected. Cf. Evelyn R. Robertson, et al., Duncan Miller, A-29251 (March 21, 1963) and cases cited therein.

The decision appealed from is affirmed.

Messrs. Phillips and Funk are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION
Mr. Cecil H. Phillips (Certified Mail)
Mr. Foss S. Funk (Certified Mail)
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service (1)
Appeals List No. 1
EG

Appeal to Sec.
Affirmed A-30147
4-8-64

DOCKET FILES

EPT. OF INTERIOR
ACRAMENTO. CAL.
AUG 5 10 30 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Los Angeles 0166185
0166034

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

July 31, 1963

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Appeal Dismissed

Mr. Duncan Miller has appealed from a decision of the Acting Manager, Riverside Land Office, California, dated March 4, 1963, which rejected his noncompetitive oil and gas lease offer, filed December 23, 1959. The decision rejected the offer on the ground that the lands described in it are embraced within an outstanding lease, Los Angeles 0166034, issued to Mr. A. P. Quirk as of April 1, 1963, pursuant to an offer filed October 29, 1959.

The record shows that Mr. Miller had previously protested against the issuance of a lease pursuant to the prior offer of Mr. Quirk, asserting that the offer was invalid because of a "bad-faith, deceitful" relinquishment of a prior lease covering the same land with Mr. Quirk's offer being filed to circumvent the acreage limitation and monopoly provisions of secs. 17 and 27 of the Mineral Leasing Act, as amended. By Departmental decision Duncan Miller, A-29190 (January 29, 1963), the dismissal of his protest was affirmed.

In this appeal Mr. Miller reiterates his belief that the lease offer in Los Angeles 0166034 was invalid. The basis for such belief is substantially the same as previously presented in his appeals to the Bureau and the Department on his protest to issuance of a lease under offer Los Angeles 0166034. He states in substance that Mr. Quirk, the lessee in 0166034, learned from the Continental Oil Company of the latter's relinquishment of a prior lease on the land, enabling him to file an offer therefor prior to the time the public would have knowledge that the land was again available for oil and gas leasing, and that consequently the offer was in violation of the Mineral Leasing Act, as amended, 30 U.S.C., 1958 ed., secs. 184 and 226.

The issue raised by Mr. Miller has been decided against him in the Departmental decision cited above, which became final prior to the land office decision of March 4, 1963, which is the subject of his present appeal. It is to be noted that the Department has been sustained by the courts in ruling on the issue with which Mr. Miller is concerned. Duncan Miller v. Stewart L. Udall, 307 F. 2d 676 (1962). The court noted in the cited decision that since the old practice denied other potential applicants a fair opportunity to obtain the benefits of the Mineral Leasing Act, supra, the regulations, 43 CFR 192.43, were amended, 24 Fed. Reg. 9846, December 8, 1959, to assure public notice and fuller participation in the process of issuing new leases after relinquished ones.

Mr. Miller has not questioned the correctness of the holding in the decision now appealed from, which is substantially that a junior offer is properly rejected when the lands are leased pursuant to a prior, valid lease offer. The decision was correct in this ruling. Duncan Miller, A-28172 (February 11, 1960).

In view of the foregoing, the appeal is dismissed for failure of the appellant to state reasons for the appeal from the land office decision of March 4, 1963, which were not previously considered.

Mr. Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington 25, D. C., and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken, the adverse party to be served is:

Mr. A. P. Quirk
612 South Flower Street
Los Angeles, California 90017

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mr. Duncan Miller (Certified Mail)
Mr. A. P. Quirk
Division of Minerals (3)
Conservation Division, Geological Survey (6)
Gower Federal Service
Appeals List No. 1
DWG

EPT. OF INTERIOR
ACRAMENTO, CAL.
SEP 3 10 00 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Riverside 02598

August 22, 1963

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

DECISION

W. W. Priest : Oil and Gas

Decision Reversed

Mr. W. W. Priest has appealed from a decision of the Manager, Riverside Land Office, which rejected his above-noted oil and gas lease offer filed February 13, 1963. The rejection was based on Public Land Order No. 431 of December 19, 1947, 12 Fed. Reg. 8895 (1947), which withdrew from all forms of appropriation, including the mining and mineral leasing laws, and reserved for the use of the Navy Department certain lands in California, including the lands applied for by the appellant.

The appellant correctly alleges error in the decision for its failure to note that Public Land Order 2916 (Los Angeles 0162393) of January 30, 1963, 28 Fed. Reg. 1145 (1963), revoked Public Land Order No. 431 as to all the lands for which the appellant applied, and opened them to the filing of applications, selections and locations.

Accordingly, the decision appealed from is reversed, and the case is remanded for further consideration of the lease offer.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION
Mr. W. W. Priest
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Division of Withdrawals
Gower Federal Service
Appeals List No. 1
DWG

appeal to Sec
affirmed A-30143 - 3-25-64

DOCKET FILES

EPT. OF INTERIOR
ACRAMENTO, CAL.
SEP 5 10 00 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C.

In Reply Refer to:
6.05c
Los Angeles 095962

August 27, 1963

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Texaco, Inc., : Oil and Gas
Assignor :
Nancy Leigh Grant, :
Assignee :

Decision Affirmed

The addressees have appealed from a decision of the Riverside land office dated May 8, 1963, denying approval of a proposed partial assignment affecting the above-identified lease and holding that the lease terminated by operation of law at the end of its tenth year on April 30, 1963. The termination occurred due to the lack of a bond required in support of the partial assignment by which it was intended to extend the assigned and retained portions of the lease (30 U.S.C., sec. 187a).

The bond was filed with the appeal on May 14, 1963. In the appeal, the appellant's attorney refers to correspondence concerning the bond, to which he seeks to ascribe some of the delay in its filing. He requests that the termination decision be set aside and the partial assignment be approved to effect the lease segregation and continuance.

The subject lease was issued effective May 1, 1953, for a term of 5 years and was extended for a second 5-year term to April 30, 1963. The proposed assignment in question was filed on March 13, 1963, which was timely for the purpose of the intended extension in the absence of any additional requirement. However, since the land affected was patented with a reservation of the oil and gas to the United States under the Act of July 17, 1914 (30 U.S.C., sec. 122), a bond in the sum of $1,000 was required for the protection of the surface owner. 43 CFR 192.100(b). 1/ As the decision appealed from sets out, upon approval the assignment would take effect as of the first of the month following the filing of all of the papers required by the regulations. 43 CFR 192.141 and 192.142. Thus, filing of the bond on May 13 would indicate a June 1, 1963 effective date of the assignment, a full month after termination of the lease.

1/ This regulation was amended by Circ. 2112, 28 F. R. 6833, July 3, 1963, effective August 2, 1963, to provide: Until a general lease bond is filed, a noncompetitive lessee will be required prior to entry on the leased lands to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

Since in order for a lease to become segregated through partial assignment and thus become entitled to the extension authorized for segregated leases, a partial assignment affecting it must be filed while there is still one month remaining to the lease term, where the requirements for filing a partial assignment of a noncompetitive lease are not met before the end of the next to the last month of the lease term, the assignment cannot be approved. Joe T. Juhan, A-28667 (May 17, 1962).

Therefore, the action of the land office was correct and in accordance with the law and the regulations in effect at the time of its decision. Accordingly, the decision appealed from is hereby affirmed.

Texaco, Inc., and Nancy Leigh Grant are allowed the right of appeal to the Secretary of the Interior, in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C., 20025, and the amount of the filing fee will be $5. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:

Emil Steck, Jr., Attorney for Texaco, Inc. and Nancy Leigh Grant (Certified Mail)
Nancy Leigh Grant (Regular Mail)
Texaco, Inc. (Regular Mail)
Division of Minerals (3)
Geological Survey, Conservation Division (3)
Gower Federal Service (1)
Appeals List No. 1
AHO

DOCKET FILES

OF INTERIOR
CAL.

SEP 16 10 00 AM 1963

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Los Angeles 0142203
0142203(A)

SEP -6 1963

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington D.C. 20240

DECISION

Vito Rotunno :
Maurice Samson : Oil and Gas
:

Decision Affirmed

The addressees have each appealed from a decision of the Riverside land office dated May 1, 1963, which rejected an application for extension of the above-identified oil and gas leases and held that the leases terminated by operation of law on March 31, 1963. The application for extension was rejected for the reasons that the applicant, Vito Rotunno, was not the record title holder of either lease, an assignee of either lease whose assignment had been filed for approval, or an operator of either lease whose operating agreement had been filed for approval. 43 CFR 192.120. Maurice Samson was the record lessee of the leases.

Each appellant contends that it was the intention of both of them to continue the leases and urges that the termination be set aside and the extensions approved. Mr. Samson also states in his appeal that he and Mr. Rotunno had entered into an operating agreement concerning a drilling block which included the subject parent lease. The operating agreement does not appear in the lease records, however, and Mr. Rotunno as record owner of an overriding royalty interest in the leases was not an authorized applicant for extension of the leases.

An application for five-year extension of an oil and gas lease issued prior to September 2, 1960, must be filed by a record title holder of the lease, an assignee whose assignment has been filed for approval, an operator whose operating agreement has been filed for approval, or a duly authorized agent for any of these persons, prior to the expiration of the lease. 30 U.S.C. sec. 226.1; Ben Sapir et al., A-28042 (October 26, 1959).

The decision appealed from is correct, and it is affirmed.

Messrs. Vito Rotunno and Maurice Samson are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240, and the amount of the filing fee will be $5 for each lease included in the appeal. If the appeal covers both leases adversely affected by this decision, the total filing fee will be $10. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Vito Rotunno (Certified Mail)
Mr. Maurice Samson (Certified Mail)
Division of Minerals (3)
Conservation Division, Geological Survey (6)
Gower Federal Service
Appeals List No. 1
AHO

RECEIVED
SEP 30 1963
SACRAMENTO
LAND OFFICE

appeal to Sec
affirmed as modified
A-30123 12-31-64

DOCKET FILES

In reply refer to:
6.05c
Los Angeles 0166460

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

September 20, 1963

Certified Mail
Return Receipt Requested

DECISION

Marvel Petroleum Corporation : Oil and Gas

Decision Affirmed as Modified

Marvel Petroleum Corporation has appealed from a decision of the Riverside land office, dated December 26, 1962,[1] which rejected the above-noted oil and gas lease offer, filed January 19, 1960, under the Mineral Leasing Act, as amended (30 U.S.C., 1958 ed., sec. 226). The decision rejected the offer on the basis that the offeror failed to submit the names of other interested parties and to file a separate statement setting forth the nature and extent of the interests of the other interested parties; also, that the other interested parties had not furnished evidence of their qualifications to take and hold oil and gas lease interests under the Mineral Leasing Act, as amended, supra. 43 CFR 192.42(e)(3)(iii) and Item 6 of the Special Instructions on the reverse side of the lease offer form, Form 4-1158.

The decision held with respect to the offer as filed originally on January 5, 1960, that it failed to meet the requirements of 43 CFR 192.42(e)(3)(iii), and therefore was subject to rejection, for the reason that a statement containing the nature of the agreement between the interested parties and signed by all of the interested parties was not filed. The decision stated that two different and incomplete statements were filed with respect to this offer, not all of the interested parties having signed either one.

The appellant contends that its offer sets forth details of the oral agreement of interests adequately and that the interested parties filed adequate substantiation of the oral agreement between the parties and evidence of their qualifications.

The record shows oil and gas lease offer Los Angeles 0166460, consisting of a single copy of Form 4-1158, was filed January 5, 1960. This offer, in which the offeror stated it was not the sole party in interest, was accompanied by a letter from the offeror concerning an oral agreement it entered into for assignment of certain interests in the lease, if issued, and by statements executed by some of the named parties in interest in which the nature and extent of their interests were shown, as well as their qualifications to take and hold such interests under the Mineral Leasing Act, as amended. The offer was rejected on January 14, 1960, because the lands applied for exceeded an area of six-miles square (43 CFR 192.42(d)). Four additional copies of this offer were submitted on January 15, 1960, in which the offeror stated it was not the sole party in interest and attached information concerning an oral agreement with other parties who were to share in the lease, if issued, substantially similar to the agreement previously furnished, and accompanied by statements executed by some of the parties in interest to show the nature and extent of these interests and their qualifications to take and hold such interests under the Act. A new offer was submitted by the offeror on January 19, 1960, for the identical land less an 80-acre tract. This offer referred to the serial number of the previous filing and also stated that the offeror was not the sole party in interest.

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[1] The decision vacated and superseded a previous land office decision dated November 23, 1962, concerning the offer.

It would appear that the purpose of filing the new offer on January 19, 1960, was to eliminate some of the acreage therein in order to comply with the six-mile square rule, as noted in the land office decision of January 14, 1960, since a reference was made to the serial number of the original offer and no filing fee or advance rentals were tendered with this last filing. The statement made in this offer that the offeror is not the sole party in interest was apparently a repetition of the statements previously made concerning parties of interest in the offer.

The sole question for determination is whether the offeror has complied with the regulation 43 CFR 192.42(e)(3)(iii). In this respect its lease offer is to be considered on the basis of all papers and statements furnished to supplement the original filing of January 5, 1960; however, the priority of filing date of the offer is to be considered as January 19, 1960, the date on which the lands applied for were reduced to an area not exceeding a six-mile square. Cf. Raymond W. Russ, A-29294 (March 18, 1963).

The record information concerning the oral agreement between the parties, as originally furnished and as subsequently furnished, are substantially similar. The statements and qualifications of the parties having an interest as furnished in the first instance, and the statements and qualifications of the parties having an interest as furnished in the second instance, in combination include all of the parties having an interest in the offer as shown in the oral agreements. However, the nature and the extent of the interests of the parties as shown in their statements do not correspond with the nature and the extent of these interests as shown in the letters concerning the oral agreements. For instance, in the executed statements one of the parties states his interest is to be $2\frac{1}{2}$ percent in an overriding royalty whereas the information as to the oral agreements shows less than that percentage in his name and shows the interest as record title in one statement and in another as an overriding royalty. Because of these discrepancies, there is no accurate showing of the actual interest and the nature of this interest.

The regulation is specific in requiring if other parties are interested in the offer that a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them, if oral, and a copy of such agreement if written. It goes without saying that statements as to such interests must be consistent with each other. Also, the information is required because of the necessity of making and determining chargeability and an accounting of acreage holdings as provided in the regulations.43 CFR 192.3.

In view of the foregoing, the decision rejecting the offer is affirmed, as modified.

Marvel Petroleum Corporation is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION
Marvel Petroleum Corporation (Certified Mail)
Division of Minerals (3)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

appeal to Sec
Reversed & Remanded
A-30170 4-15-64

DOCKET FILES

RECEIVED
OCT 7 1963
SACRAMENTO LAND OFFICE

In reply refer to:
6.05c
Sacramento 075400
075493 appeal to Sec

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

September 25, 1963

Certified Mail
Return Receipt Requested

DECISION

DOCKET FILES

E. W. Sawyer :
 : Oil and Gas
George A. Salzer :

Decision Reversed
Lease Held for Cancellation

Mr. E. W. Sawyer has appealed from a decision of the Sacramento land office dated May 21, 1963, rejecting his above-numbered oil and gas lease offer filed April 22, 1963, for the stated reason that the lands requested in the offer were insufficiently described so as to be identified and that the offer therefore did not comply with the requirement of the regulations in 43 CFR 192.42a(a). The offer described Lots 6, 7, 13 sec. 7, T. 27 S., R. 19, MD Meridian, Kern County, California, 124.07 acres. The decision rejected and returned the offer to the offeror without priority, under 43 CFR 192.42(g)(1)(i), and omitted it from the drawing of simultaneous offers for the same lands.

The appellant contends that the lands described in his offer were precisely and definitely described. He calls attention to the fact that, although he gave the range as "R. 19, MD Meridian", it could only refer to Range 19 East in Kern County, as noted, since the same distance West of the Mount Diablo Meridian, about 140 miles, would be in the Pacific Ocean. The appellant apparently misquotes a posted notice in the land office as showing that his offer drew #1 priority, inasmuch as his offer was excluded from the drawing and had not been assigned any priority.

The appellant is correct as to the certainty of identification of the land in his offer, since the description supplied could be applied only to the lands for which it was intended. Consequently, the description is adequate and within the requirements of the cited regulation. Cf. Don Pelletier et al., A-28327 (July 11, 1960).

It is therefore held that lease offer Sacramento 075400 was erroneously omitted from the drawing of simultaneously-filed lease offers held in the Sacramento land office on April 29, 1963, 43 CFR 191.10. Accordingly, it is proper to vacate the drawing insofar as it pertains to offers for the above-described lands and to order a new drawing among offers for these lands in which offer Sacramento 075400 will participate. John H. Anderson et al., 67 I.D. 209 (1960).

Accordingly, insofar as the drawing held on April 29, 1963, pertains to offers for the above-described lands, it is hereby vacated. When this decision is final, a new drawing will be held among the simultaneous offers to determine the order of their consideration toward lease issuance. John H. Anderson et al., supra.

The record shows that as a result of the drawing which was held, a 10-year oil and gas lease, Sacramento 075493, was issued effective July 1, 1963, for the above lands to Mr. George A. Salzer, 1833 West Belcher, Merced, California, whose lease offer drew first priority. In view of the vacation of the drawing, the lease must be deemed to have been issued erroneously, and it is held for cancellation. Boesche v. Udall, 373 U.S. ___ (May 27, 1963).

Therefore, the decision appealed from is in error and it is reversed.

Mr. George A. Salzer is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is filed, the adverse party to be served is:

Mr. E. W. Sawyer
425 North June Street
Los Angeles, California 90000

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

George A. Salzer (Certified Mail)
E. W. Sawyer
Division of Minerals (3)
Geological Survey, Conservation Division (6)
Gower Federal Service
Appeals List No. 1
AHO

appeal to Sec

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

In Reply Refer to:
6.05c
Sacramento 066605
073027

DEPT. OF INTERIOR
SACRAMENTO, CAL.
OCT 24 10 00 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

Affirmed A-30183
2-16-65

October 15, 1963

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

R. A. Keans : Oil and Gas

Decision Affirmed

The addressee has appealed from a decision of the Sacramento land office dated May 8, 1963, by which the above-identified oil and gas lease offer was rejected to the extent of lands included in the prior lease for the same land, Sacramento 066605, which was reinstated under the Act of October 15, 1962 (30 U.S.C., sec. 188(c)), by land office decision of April 24, 1963.

The appellant contends that lease Sacramento 066605 should be cancelled, that the rejection decision of May 8 should be reversed, and that a lease should issue pursuant to his offer Sacramento 073027 for the land described. In substance the appellant bases his appeal upon vested rights claimed to have been initiated by the filing of his lease offer on September 24, 1962, a date prior to enactment of the above-cited law.

The records show lease Sacramento 066605 was issued effective August 1, 1961, for the SE$\frac{1}{4}$SW$\frac{1}{4}$, NE$\frac{1}{4}$SE$\frac{1}{4}$, S$\frac{1}{2}$SE$\frac{1}{4}$ sec. 33, T. 24 S., R. 19 E., M.D. Mer., California. The lease was held terminated effective August 1, 1962, for failure to pay the second year's rental on or before that date; the rental was received on August 2, 1962. In a letter of August 13, 1962 a co-lessee, Occidental Petroleum Corporation, protested termination of the lease and requested its reinstatement, which protest was dismissed by land office decision of August 16, 1962. No appeal was taken from this decision, however, request was made on November 16, 1962, for reinstatement of the lease under the above-cited law, and by land office decision of February 20, 1963, the request was denied. Thereafter, on March 26, 1963, Occidental Petroleum Corporation, Helm Company and Robert Sumpf, all of the lessees, filed a formal request for reinstatement of the lease under the above-cited law. The request was supported by evidence from the Post Office Department that the air mail rental payment posted in Bakersfield, California, between 6:30 p.m. and 7:00 p.m., on July 31, 1962, should normally have been received in the Sacramento land office prior to 3:00 p.m., August 1, 1962. By decision of April 24, 1963, the land office held the lease reinstated, pursuant to the cited law, on the basis that failure to pay the rental timely was justifiable or not due to a lack of reasonable diligence. Other essential factors under the law were also noted; i.e., remittance was received of the rental and no valid lease had been issued for the lands.

Concerning rights claimed to have been initiated by filing lease offer Sacramento 073027 by the appellant, it is well settled that an offeror acquires no vested right to have a lease issued but only an inchoate right to receive a lease over a later applicant. United Manufacturing Company et al., 65 I.D. 106 (1958).

Accordingly, the decision appealed from is affirmed.

R. A. Keans is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C., 20240, and the amount of the filing fee will be $5. In taking an appeal, there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken, the adverse parties (Occidental Petroleum Corporation, Helm Company and Robert Sumpf) should be served with notice thereof through

Mrs. H. S. Gilmore,
Gilmore & Gilmore,
1005 Eighth Street,
Sacramento, California 95814.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
R. A. Keans (Certified Mail)
Krystal & Paradise, Attorneys for R. A. Keans (Certified Mail)
Occidental Petroleum Corporation, Helm Company, Robert Sumpf (Regular Mail)
H. S. Gilmore
Division of Minerals (3)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

In reply refer to:
6.05c
Sacramento 074887
074888

DEPT. OF INTERIOR
SACRAMENTO, CAL.
OCT 24 10 00 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

October 17, 1963

DOCKET FILES

DECISION

John M. Geer :
Robert G. Lynn :

Oil and Gas

Decision Reversed
Cases Remanded

Mr. Robert G. Lynn has appealed from a decision of the Sacramento land office, dated July 12, 1963, rejecting the above-identified oil and gas lease offers on the basis that the statements of the additional party in interest, Mr. John M. Geer, do not meet the requirements of the regulation 43 CFR 192.42(e)(3)(iii). The deficiencies are stated in the land office decision as follows: (a) the statements failed to indicate whether the agreement between the parties was oral or written, or to furnish a copy of the same, if written; (b) the statements were not over the signatures of both the offeror and the other party in interest; and (c) statements meeting these requirements were not furnished within 15 days after filing of the offers.

The appellant denies each of the deficiencies, contends that the statements attached to the lease offers comply with the requirements of the cited regulation, and requests that the rejection decision be reversed and the leases be allowed to issue. Partial withdrawals of both offers were filed, with parcels of isolated lands remaining in each offer.

The files disclose that the written statements which accompanied the lease offers are both over the signatures of both parties, that each party is disclosed therein to have a one-half interest in the leases to be issued and the same (pro)portion of advance rentals refunded; and the additional party has stated therein his qualifications to take and hold thellease interests applied for. Thus, the offers are in compliance with the regulation cited.

Accordingly, the decision rejecting the offers is reversed and the files are remanded, through the State Director for California, to the land office for further consideration and processing, all else being regular.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

DISTRIBUTION

Mr. Robert G. Lynn
Mr. John M. Geer
Division of Minerals (3)
Geological Survey, Conservation Division (6)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.
NOV 4 10 00 AM 1963
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Riverside 0687

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington D.C. 20240

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Hugo H. Pyes : Oil and Gas
:
:
Decision Affirmed

October 30, 1963

Hugo H. Pyes appealed from a decision of the Riverside land office dated June 20, 1963, declaring his above-noted oil and gas lease terminated automatically by operation of law on June 3, 1963, since the full amount of the second year's advance rental was not timely paid.

The record shows that the lease was issued effective June 1, 1962, for a total area of 1640.49 acres with a yearly rental of $820.50, and that on May 31, 1963, the lessee relinquished the lease as to 1360 acres and paid $140 advance rental for the second lease year, which was 50 cents short of the amount necessary for full rental on the 280.49 acres retained in the lease.

The appellant acknowledges that his rental payment was 50 cents short of the amount due for the second lease year. He contends, in effect, that since this shortage was due for the excess of .49 of an acre in lot 4 sec. 2, T. 15 S., R. 17 E., S.B.M. (40.49 acres), and his rental payment covered the leased lands based on the 40-acre computation rule for each smallest legal subdivision, his lease should be reinstated. He submitted the additional 50 cents payment with his statement of reasons for appeal.

The contentions are without merit. Because of the failure of the lessee to pay the full amount of the second year rental within the time required, the land office correctly held that the lease terminated by operation of law pursuant to section 31 of the Mineral Leasing Act, as amended by the act of July 29, 1954 (30 U.S.C., 1958 ed., sec. 188). 1/ D. Miller, 65 I.D. 281 (1958). The fact that money is subsequently tendered to make up for the rental deficiency after the anniversary date of the lease when it is due cannot alter the effect of the automatic termination as the 1954 act does not set forth any such exceptions. Champlin Oil and Refining Company, 66 I.D. 26 (1959).

Accordingly, the decision appealed from is affirmed.

1/ This section was further amended by the Act of October 15, 1962 (30 U.S.C. sec. 188(c) and (d), Supp. IV, 1963); however, the amendments are not pertinent here since this lease terminated after the effective date of the amendatory law.

Mr. Pyes is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington D.C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Hugo H. Pyes (Certified Mail)
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
EG

DOCKET FILES

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE

1963 NOV 14 AM 10 00

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington D.C. 20240

In reply refer to:
6.05c
Riverside 03565
November 7, 1963

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Bruce Anderson : Oil and Gas
:
:
:

Decision Affirmed

The addressee has appealed from a decision of the Riverside land office dated August 14, 1963, rejecting his competitive bid for an oil and gas lease in the Metson field, California. The bid was $7 per acre for 40 acres in Parcel #7.

The appellant states that there were other bids for this land, and that his was the highest bid. He advises there has been little or no activity in the area in recent years.

The record shows that on July 31, 1963, bids were opened on Parcel #7 of $2.10, $7 and $16 per acre. The proposed bid of $16 failed since it was unsigned and was therefore considered to be no bid. It is indicated therefore that Parcel #7 can be expected to bring not less than $16 per acre when offered again. The recommendation of the Geological Survey is that it be included in the next offering to lease. The bid of $7 per acre was rejected in accordance with the right reserved in the published notice to reject any and all bids, i.e., for valid reasons including field conditions and amounts bid. C. C. Thomas, A-27380 (November 7, 1956).

Therefore, the decision appealed from is affirmed.

Mr. Bruce Anderson is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DIST. ON PAGE 2

DISTRIBUTION:
Mr. Bruce Anderson (Certified Mail)
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
AHO

appeal to Sec

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.

NOV 22 10 09 AM 1963

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Los Angeles 0168545

November 18, 1963

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington D.C. 20240

DECISION

Duncan Miller :
:
:
:

Oil and Gas

Decision Affirmed

The addressee has appealed from a decision of the Riverside land office dated July 25, 1963, rejecting his above-numbered oil and gas lease offer filed on August 16, 1960, for the reason that the lands sought are embraced in a lease issued pursuant to a prior-filed offer. The outstanding lease is idneitifed as Los Angeles 0166111 issued effective June 1, 1962, pursuant to a prior-filed offer of November 2, 1959.

The appellant states that the conflicting lease offer was in violation of the regulations since it involved less than 640 acres and adjacent land was not under lease. No details were furnished as to how these conclusions were reached. However, the file discloses that the appellant previously sought to establish that lease Los Angeles 077184 for adjacent lands could not have been validly extended by partial assignment (30 U.S.C., 1952 ed., Supp. IV, 187a) because the assignor could not assign interests not wholly-owned by her; hence, his contention, in effect, that the lands in offer Los Angeles 0166111 were not isolated when the offer was filed. The validity of the extension of lease Los Angeles 077184 for a period through August 31, 1961, was previously upheld by decision of this office, Iva Odeen et al., Los Angels 077183 etc., (December 8, 1961), and affirmed by the Department, Duncan Miller, A-29365 (July 1, 1963). Therefore, lease Los Angeles 077184 was valid and outstanding on the date offer Los Angeles 0166111 was filed, and the lands in offer Los Angeles 0166111 were surrounded by lands not available for leasing under the act. 43 CFR 192.42(d).

Therefore, the decision appealed from is affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken, the adverse party to be served is:

Keans, Springmann and Stipek, Inc.
731 South Flower Street
Los Angeles, California

Frances A. Patton
Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:
Mr. Duncan Miller (Certified Mail)
Keans, Springmann and Stipek, Inc.
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.

DEC 6 10 00 AM 1963

BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Los Angeles 0149690
0149691

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

December 3, 1963

Certified Mail
Return Receipt Requested

DECISION

Temple DeVilbiss ;
Allen T. VanHuisen ; Oil and Gas

Decision Affirmed

The addressees have appealed from a decision of the Riverside land office dated September 10, 1963, rejecting their applications for lease extension as not timely and holding that the above-identified leases terminated at the end of their five-year primary terms on July 31, 1963. The applications for extension were filed on August 1, 1963.

The appellants assert that certified checks in payment of sixth year rentals and the requests for lease extensions, were mailed on July 31, 1963, therefore, consideration of a grace period should be given in this instance. They also refer to their development program in the area and state that they are planning to drill a test well in the future.

The records show that each of the leases was issued effective August 1, 1958, for a period of five years, and so long thereafter as oil or gas is produced in paying quantities, with the provision that at the expiration of the initial five-year term, an application may be made for extension of the lease. 30 U.S.C., sec. 226-1; 43 CFR 192.120. The application for extension must be filed within ninety days before the expiration of the primary term lease, and if such application is not received within the specified period, the lease terminates by operation of law at the end of its primary term, and an application for extension subsequently filed must be rejected. The requirement that a document be filed by a certain date means that it must be actually received by that date in the office where it is to be filed and not merely put into the mails prior to that date. H. P. Saunders, Jr., 59 I.D. 41 (1945), and cases cited therein. In the circumstances the land office was authorized only to reject the applications. Louis Kogan, A-27663 (August 27, 1958).

Accordingly, the decision appealed from is affirmed.

Messrs. DeVilbiss and VanHuisen are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240. The filing fee will be computed on the basis of $5 for each lease included in the appeal. If the appeal covers both leases adversely affected by this decision the total filing fee is $10. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION
Mr. Temple DeVilbiss and Mr. Allen T. VanHuisen (Certified Mail)
Division of Minerals (3)
Geological Survey, Conservation Division (6)
Gower Federal Service
Appeals List No. 1
AHO

In reply refer to:
3.03c
Sacramento Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

January [illegible], 1970

Certified Mail
Return Receipt Requested

DECISION

George J. Miller :

Oil and Gas [illegible]

Bertha Justice Miller :

DECISION AFFIRMED AS MODIFIED

Mr. George J. Miller and Mrs. Bertha Justice Miller have appealed from a decision of the Sacramento land office dated December 8, 1969, rejecting the above-identified oil and gas lease offer, filed under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1964 ed., sec. 181 et seq.). The decision stated that the lands were patented without reservation of the minerals to the United States and therefore were not available for oil and gas leasing.

The record verifies the land office ruling that the lands were patented, having been included in a patent to the Central Pacific Railway Company under approved list [illegible] of March [illegible], 19[illegible]. However, the appellants have furnished with the appeal a title report on the lands, dated November [illegible], 19[illegible], and a certified copy of a judgment of the Northern Division of the United States District Court for the Northern District of California, dated August 23, 19[illegible], disclosing that the lands were acquired and are presently owned by the United States, no reservation was expressed as to the Government merely having jurisdiction over the lands and the mineral deposits therein.

The Mineral Leasing Act of 1920, as amended, supra, applies to public lands only, and an application under its provisions can afford the applicant no rights to a lease of acquired lands, such lands being leasable under the provisions of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C., 1964 ed., sec. 351 et seq.), and implementing regulations in 43 CFR Part [illegible]. [illegible], A-[illegible] ([illegible]); cf. [illegible], A-[illegible] ([illegible]).

Therefore, the decision rejecting the lease offer is affirmed, as modified herein.

The appellants are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. (See enclosed Form [illegible].) If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.
JAN 23 10 00 AM 1964
BUREAU OF LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Sacramento 077012

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

January 16, 1964

Certified Mail
Return Receipt Requested

DECISION

George J. Miller :
Bertha Juanita Miller :

Oil and Gas

Decision Affirmed as Modified

Mr. George J. Miller and Mrs. Bertha Juanita Miller have appealed from a decision of the Sacramento land office dated November 8, 1963, rejecting the above-identified oil and gas lease offer, filed under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 181 *et seq.*). The decision stated that the lands were patented without reservation of the minerals to the United States and therefore were not available for oil and gas leasing.

The record verifies the land office ruling that the lands were patented, having been included in patent to the Central Pacific Railway Company under approved list #117 of March 27, 1906. However, the appellants have furnished with the appeal a title report on the lands, dated November 19, 1963, and a certified copy of a judgment of the Northern Division of the United States District Court for the Northern District of California, dated August 25, 1939, disclosing that the lands were acquired and are presently owned by the United States. No information was supplied as to the Government agency having jurisdiction over the lands and the mineral deposits therein.

The Mineral Leasing Act of 1920, as amended, *supra*, applies to public lands only, and an application under its provisions can afford the applicant no rights to a lease of acquired lands, such lands being leasable under the provisions of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C., 1958 ed., sec. 351 *et seq.*) and implementing regulations in 43 CFR Part 200. *Duncan Miller*, A-28267 (June 8, 1960); Cf. *Gale Thomas*, A-28357 (July 27, 1960).

Therefore, the decision rejecting the lease offer is affirmed, as modified herein.

The appellants are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mr. George J. Miller (Certified Mail)
Mrs. Bertha Juanita Miller (Certified Mail)
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.
JAN 24 2 49 PM 1964
BUREAU OF LAND MANAGEMENT
LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

In reply refer to:
6.05c
Riverside 03659

January 20, 1964

Certified Mail
Return Receipt Requested

DECISION

Temple DeVilbiss
Paul E. Griffin

Oil and Gas

Decision Affirmed

Messrs. Temple DeVilbiss and Paul E. Griffin have appealed from a decision of the Riverside land office dated August 29, 1963, rejecting their lease offer Riverside 03659. The decision held that the lands sought are not available for oil and gas leasing inasmuch as they are withdrawn from all forms of appropriation under the public land laws including mining and mineral leasing, by Public Land Order 283 of May 31, 1945, as amended by Public Land Order 1111 of April 5, 1955, for use of the Department of the Navy for aviation purposes.

The appellants do not challenge the status of the lands, as reported by the land office and verified by the record. In effect they request a subsurface lease be granted, from 500 feet down, with provision for slant drilling from wells surfaced on adjoining lands leased to them. This request overlooks the fact that the withdrawn lands are withdrawn from all forms of appropriation under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C., 1958 ed., sec. 181 et seq.). The withdrawal applies as well to subsurface as to surface operations and so long as it remains in effect all offers to exploit the mineral resources in the withdrawn lands must be rejected. Frank M. McGinley, 67 I.D. 198 (1960).

Therefore, the decision appealed from is affirmed.

Messrs. Temple DeVilbiss and Paul E. Griffin are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5.

If an appeal is filed the appellants will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION:

Messrs. Temple DeVilbiss and Paul E. Griffin (Certified Mail)
Division of Minerals (3)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

DEPT. OF INTERIOR
SACRAMENTO, CAL.
MAR 2 10 00 AM 1964
BUREAU OF
LAND MANAGEMENT
LAND OFFICE

In reply refer to:
6.05c
Los Angeles 0170899-F
February 18, 1964

Certified Mail
Return Receipt Requested

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

DECISION

Warren A. Stearns : Oil and Gas

: Decision Affirmed

Mr. Warren A. Stearns has appealed from a decision of the Riverside land office dated September 27, 1963, declaring his above-noted oil and gas lease terminated automatically by operation of law on September 3, 1963, for his failure to pay the full amount of the second year rental ($40) on or before September 3, 1963. The record shows that only $20 was paid.

The appellant acknowledges that his rental payment was deficient. He asserts, however, that his failure to pay the proper rental was due to an erroneous billing by the land office. He has submitted with his appeal the lower portion of a rental notice showing a billing for $20. The appellant contends that his lease should be restored to good standing after he is billed for the correct amount and promptly submits payment, which he avers he will do.

Section 31 of the Mineral Leasing Act, as amended by the act of July 29, 1954 (30 U.S.C., 1958 ed., sec. 188) 1/ provides, in pertinent part, that upon failure of a lessee to pay rental on or before the anniversary date of the lease, the lease shall automatically terminate by operation of law. The statute is self-operating, and, if anything less than the full amount of rental due is paid, the lease simply terminates. Champlin Oil and Refining Co., 66 I.D. 26 (1959); D. Miller, 65 I.D. 281 (1958).

The appellant's apparent belief that he is entitled to another notice of rental due is erroneous. Notice of rental due is sent as a courtesy only and failure to receive a proper notice cannot affect the obligation of the lessee to pay the required rental on or before the anniversary date of the lease. A lessee is chargeable with knowledge of the lease terms including the time and amount of rental payments. H. L. Patterson, A-27745 (November 19, 1958).

Payment of less than the total amount due, even where such amount is erroneously billed by land office personnel, does not prevent the automatic termination of a lease. Niobrara Oil and Mineral Corporation, A-29502

1/ This section was further amended by the Act of October 15, 1962 (30 U.S.C., sec. 188 (c) and (d), Supp. IV, 1963); however, the amendments are not pertinent here since the lease terminated after the effective date of the amendatory law.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 221, as amended. See enclosed Form 4-1365. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken, the adverse party to be served with notice is:

Mr. W. T. Woodward
P. O. Box 325
Taft, California

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Division of Appeals

Enclosure

DISTRIBUTION

Mr. Duncan Miller (Certified Mail)
Mr. W. T. Woodward
Division of Minerals (3)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
EG

appld to the Sec
affirmed A-30341
6-30-65

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE

DOCKET FILES

Oil and Gas Leases: Termination 3129

1964 JUL 13 AM 10 00

First Qualified Applicant

One whose oil and gas lease is declared to have terminated and who fails to appeal from the decision declaring the termination loses his rights in the lease and cannot invoke the alleged continuation of the lease to defeat an oil and gas lease offer filed for the land described by such terminated lease.

Oil and Gas Leases: Reinstatement 3129.2

One whose lease is declared to have terminated and who fails to appeal from the decision declaring the termination is not entitled to reinstatement of the lease nor the issuance of a new lease when the rights of a subsequent offeror have intervened.

Harold Ladd Pierce, Riverside 04281 etc. (July 2, 1964)

In reply refer to:
704
Riverside 04281
04283
04311
04310

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

July 2, 1964

Certified Mail
Return Receipt Requested

DECISION

Harold Ladd Pierce : Oil and Gas

Decision Affirmed

Mr. Harold Ladd Pierce has appealed from a decision of the Riverside land office dated February 19, 1964, which dismissed his protest against oil and gas lease offers Riverside 04283 and 04311 each of which drew first priority in a public drawing for lands in the appellant's former leases, Los Angeles 0170872 and 0171480, which terminated April 1, 1963, for non-payment of second year rentals on or before that date, the anniversary date of the leases. The protest was dismissed because the appellant failed to show cause why leases should not be issued to the first priority offeror for the lands involved.

Land office decision dated April 22, 1963, which held that leases Los Angeles 0170872 and 0171480 had terminated on April 1, 1963, was affirmed by Bureau decision of August 22, 1963. That decision became final in the absence of an appeal therefrom to the Secretary of the Interior. The lands were thereafter posted as available for leasing and offers Riverside 04283 and 04311, filed by Mr. Sid Rogell on December 23, 1963, were successful in the drawings for the two parcels. The appellant's simultaneous offers for the lands involved, Riverside 04281 and 04310, each drew second priority.

Concerning termination of the former leases, the appellant indicates that he had not presented all of the pertinent facts in his prior appeal (from the land office decision of April 22, 1963). He has furnished a clipping of an article from the Los Angeles Times of February 26, 1964, stating that delays and missent mail had reached such proportions nationally that the Post Office Department had instructed all postmasters to take immediate corrective action. He has supplied copies of letters from the Acting Postmaster, Pasadena, indicating that his letters, posted on March 29, 1963, should have reached the Riverside land office on April 1, 1963.* The appellant states that he filed his present offers under protest, and contends that the former leases should be reinstated or new leases issued to him pursuant to his present offers.

---

* The prior appeal indicated the posting date as March 28, 1963.

One whose lease is declared to have terminated and who fails to appeal from the decision declaring the termination loses his rights in the lease. Benson-Montin-Greer Drilling Corp., A-29966 (March 30, 1964). Since Mr. Pierce failed to appeal from the Bureau decision of August 22, 1963, he has lost his rights in former leases Los Angeles 0170872 and 0171480. In the circumstances there is no authority for reinstatement of the former leases, nor is there authority for the issuance to the appellant of new leases for the lands involved absent an adjudicative determination subsequent to the finality of this appeal that offers Riverside 04283 and 04311 are defective.

Accordingly, the decision appealed from is affirmed.

Mr. Pierce is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5 for each lease offer, or $10 if both offers are included in the appeal. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

If an appeal is filed, the adverse party to be served is:

Mr. Sid Rogell
323 South Beverly Glen
Los Angeles, California

Frances A. Patton

Chief, Branch of Mineral
Leasing Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION:
Mr. Harold Ladd Pierce (Certified Mail)
Mr. Sid Rogell
Div. of L&M S&T (4)
Div. of L&M PM (2)
Geological Survey, Conservation Division (6)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

Oil and Gas Leases: Rentals--Termination 3129

Where the rental on an oil and gas lease subject to the act of July 29, 1954, is not paid on or before the due date, the lease terminates automatically notwithstanding the fact that the lessee's payment was then in transit.

Robert A. Adams, Los Angeles 0167415 (October 16, 1964)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1964 OCT 23 PM 2 56

In reply refer to:
704
Los Angeles 0167415

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

October 16, 1964

Certified Mail
Return Receipt Requested

DECISION

Robert A. Adams : Oil and Gas

Decision Affirmed

Mr. Robert A. Adams has appealed from a decision dated March 25, 1964, of the Riverside district and land office, which dismissed his protest against the March 4, 1964, action by the office refusing to accept a late rental payment on his above-noted oil and gas lease and determining that the lease terminated for failure to pay the second year's rental timely on March 2, 1964. 30 U.S.C. sec. 188(b). The record shows the lease was issued effective as of March 1, 1963; therefore, Monday, March 2, 1964, was the final day for making timely payment of the second year's advance rental. The rental was received in the land office on March 3, 1964.

The appellant has submitted a showing that his application for a telegraphic money order was filed on March 2, 1964, at 11:07 a.m. He contends since his money order transmitting the rental payment was in transit on the date the payment was due and since his intent was to make a timely payment, as manifested by his use of wire services, that his payment should be accepted to reinstate the lease. He states because regulation 43 CFR 1840.0-6(b) allows a 10-day grace period in connection with certain filings, similar leniency should be shown in connection with rental payments.

Section 31 of the Mineral Leasing Act, as amended by the act of July 29, 1954 (30 U.S.C., 1958 ed., sec. 188), provides that:

> * * * upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: * * *.

The rental was not paid on or before the anniversary date of the lease. The fact that the payment was in transit can avail the lessee nothing. It is the receipt of the payment in the land office which prevents the automatic termination of the lease. Paradox Minerals, Inc., A-28000 (August 5, 1959).

The Department is bound by the statute. It having been shown that the payment was not timely received, Mr. Adams' lease was automatically terminated by force of the statute. Cf. Mike Abraham, A-27763 (December 22, 1958).

The subsequent tender of the overdue rental after termination of the lease cannot operate to continue or reinstate the lease. Paradox Minerals, Inc., supra.

The regulation concerning the 10-day grace period for filing of documents in connection with appeals, cited by the appellant, has no application to required rental payments.

The decision is affirmed.

Mr. Robert A. Adams is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed, the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION

Mr. Robert A. Adams (Certified Mail)
Div. of L&M S&T (4)
Div. of L&M PM (2)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
EG

appeal to Sec
affirmed A-30393
6-30-65

009

DOCKET FILES

Mineral Leasing Act for Acquired Lands: Lands Subject to 3211

Acquired lands which have been set apart for military purposes are not subject to leasing under the Mineral Leasing Act for Acquired Lands.

A junior offer is properly rejected when the lands are leased pursuant to a prior valid offer.

Duncan Miller, Los Angeles 0161977 (October 23, 1964)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1964 OCT 30 PM 2 08

In reply refer to:
704
Los Angeles 0161977

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

October 23, 1964

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision of the Riverside land office dated December 9, 1963, which rejected his above-noted oil and gas lease offer, filed on December 18, 1958, pursuant to the Mineral Leasing Act for Acquired Lands (30 U.S.C. § 351-359), covering two areas of land at the Veterans Administration Center, Los Angeles, California.

The bases for rejection of the offer were (1) that a portion of the lands described in the amended description, filed June 22, 1959, situated southerly of Wilshire Boulevard and easterly of Federal Avenue, are not leasable under the Mineral Leasing Act for Acquired Lands as they are set apart for military purposes, and (2) that the remaining lands are in acquired lands oil and gas lease Los Angeles 0138800 issued to Tom H. Dowlen, effective November 1, 1963, pursuant to his offer filed on February 23, 1956.

The appellant submits, as to (1) above, that a lease may issue with a stipulation of no surface use of the land. This contention is incorrect. That portion of the lands sought for leasing was conveyed to the Air Force, the Army, and the California National Guard for military purposes. The Mineral Leasing Act for Acquired Lands excludes from leasing under its provisions acquired lands set apart for military purposes (30 U.S.C. § 352; 43 CFR 3211.1(f)).

As to the lands referred to in (2) above, the record shows that Mr. Miller had previously protested against the issuance of a lease pursuant to the prior offer of Mr. Dowlen, Los Angeles 0138800, asserting that the description was defective. By departmental decision Duncan Miller, A-29155 (January 24, 1963), the dismissal of his protest was affirmed.

In his present appeal Mr. Miller contends that the description in lease offer Los Angeles 0138800 was defective in that the boundary does not close. This is substantially one of the assertions previously presented in his appeals on his protest to the issuance of a lease under offer Los Angeles 0138800. The issue raised has been decided against Mr. Miller in the departmental decision cited above, which became final almost a year prior to the land office decision of December 9, 1963, the subject of his present appeal. It is believed that the departmental decision on the protest is sufficient answer to the appellant's objection to the rejection of that portion of his offer. Duncan Miller, A-30147 (April 8, 1964).

A junior offer is properly rejected when the lands are leased pursuant to a prior valid offer. Duncan Miller, A-28172 (February 11, 1960).

Accordingly, the decision appealed from is affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form Wo 1844-1 and Circular 2137. If an appeal is taken it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

If an appeal is taken the adverse party to be notified is:

Mr. Tom H. Dowlen
10525 Edgely Place
Los Angeles, California 10525

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosure

DISTRIBUTION
Mr. Duncan Miller (Certified Mail)
Mr. Tom H. Dowlen
Div. of L&M S&T (4)
Div. of L&M PM (2)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
EG/WHW

DOCKET FILES

0 2-8

Appeals Procedure: Generally 1840

Where the issue on appeal has become moot, the appeal will be dismissed.

Duncan Miller, Los Angeles 0171475 (November 3, 1964)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1964 NOV 16 AM 10 00

In reply refer to:
704
Los Angeles 0171475

November 3, 1964

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

DECISION

Duncan Miller : Oil and Gas

Appeal Dismissed; Case Remanded.

Mr. Duncan Miller has appealed from the decision dated April 16, 1964, of the Riverside land office, allowing him 30 days in which to file written consent to certain special stipulations applicable to a portion of the lands in his above-noted oil and gas lease offer situate within a condor sanctuary under the jurisdiction of the Forest Service, Department of Agriculture. The Department had held in Duncan Miller, A-29701 (November 15, 1963), that unless Mr. Miller agreed to the stipulations no lease would be issued covering the landsiin the sanctuary.

Subsequent to the takimg of the appeal, Mr. Miller executed and filed the required stipulations.

The issue on appeal having become moot, the appeal is hereby dismissed, and the case is being remanded to the land office for further appropriate consideration. In this connection it is to be noted that a further determination is also required as to whether the SW$\frac{1}{4}$SW$\frac{1}{4}$ sec. 25, T. 5 N., R. 20 W., S.B.M., California, should be included in any lease issued to Mr. Miller pursuant to his offer Los Angeles 0171475. Duncan Miller, supra.

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

DISTRIBUTION:

Mr. Duncan Miller
Div. of L&M S&T (4)
Div. of L&M PM (2)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
GOH

appeal to Secr

Oil and Gas Leases: Applications - Noncompetitive 3123.1

Lands included in a special land use permit are not in the status of lands withdrawn from mineral leasing, and the first qualified offeror therefor is entitled to a lease if a lease is to be issued for the lands.

Raymond J. Hansen et al., Riverside 03661 (November 20, 1964)

DOCKET FILES

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1964 DEC 2 AM 10 00

In reply refer to:
704
Riverside 03661
November 20, 1964

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington D. C. 20240

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Raymond J. Hansen : Oil and Gas
Louise Safarik :

Decision Affirmed

Mr. Raymond J. Hansen and Mrs. Louise Safarik have appealed from the Riverside land office decision dated January 21, 1964, rejecting their above-identified oil and gas lease offer, filed August 23, 1963, to the extent of certain lands embraced in oil and gas lease Riverside 01438, issued effective January 1, 1964, pursuant to prior-filed offer of July 23, 1962. The lands concerned are Lots 3, 4, S$\frac{1}{2}$NE$\frac{1}{4}$, SE$\frac{1}{4}$ sec. 5, and NE$\frac{1}{4}$ sec. 8, T. 14 S., R. 17 E., S.B.M., California.

The appellants contend that the described lands were withdrawn from oil and gas leasing by virtue of their inclusion in special land use permit Los Angeles 086843 to the Department of the Navy for aerial gunnery target areas from April 16, 1951 through July 23, 1963. They assert that a withdrawal of public lands for federal agencies segregates such lands from disposal under the public land laws, including the mining and mineral leasing laws, and that their offer, filed after the special land use permit had been noted as terminated on the land office records (July 23, 1963), was the first qualified offer for these lands.

In answer to the appeal, Standard Oil Company of California, lessee under Riverside 01438, states that the lands were not withdrawn from leasing under the special land use permit but were available for filing of lease offers, that its offer Riverside 01438 was properly filed, and that offer Riverside 03661 has no standing to the extent of its conflict with the prior offer and lease.

The appellee is correct. The lands were not withdrawn for the use of the Department of the Navy but use of the lands by the Navy was authorized under a special land use permit granted under the regulations in 43 CFR Part 258, now 43 CFR Part 2236. It is provided in sec. 2236.0-7 (b)(2) thereof as follows:

> The mineral contents in the land shall at all times be subject to prospecting, location, developing, mining, entering, leasing, or patenting under the provisions of the applicable general mining laws or mineral leasing laws.

Thus the fact that the lands in question were included in the special land use permit on July 23, 1962, when oil and gas lease offer Riverside

01438 was filed, did not preclude proper leasing of them. Furthermore, lands included within an outstanding oil and gas lease, whether such lease is void, voidable, or valid, are not available for leasing and offers filed for such lands must be rejected. Joyce A. Cabot et al., 63 I.D. 122 (1958).

Therefore, the decision appealed from is affirmed.

Mr. Raymond J. Hansen and Mrs. Louise Safarik are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240 and the amount of the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

If an appeal is filed, the adverse party to be served is:

Standard Oil Company of California
225 Bush Street
San Francisco, California

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION:
Mr. Raymond J. Hansen (Certified Mail)
Mrs. Louise Safarik (Certified Mail)
Standard Oil Company of California
Div. of L&M S&T (4)
Div. of L&M PM (2)
Geological Survey, Conservation Division (6)
Gower Federal Service
Appeals List No. 1
AHO

appeal to Sec
affirmed A-30434
6-8-65

DOCKET FILES

Oil and Gas Leases: Applications - Noncompetitive 3123.1

An oil and gas lease offer for lands included in an existing lease is properly rejected.

Duncan Miller, Sacramento 078724 (January 13, 1965)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 JAN 25 AM 10 00

In reply refer to:
704
Sacramento 078724

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

January 13, 1965

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from a decision dated July 28, 1964, whereby the Sacramento land office rejected his above-identified noncompetitive oil and gas lease offer filed on July 23, 1964, for the $S\frac{1}{2}$ sec. 10, T. 30 S., R. 22 E., M.D.M., California, pursuant to the Mineral Leasing Act, as amended (30 U.S.C., sec. 226). The decision held that the land described in the offer was embraced in noncompetitive oil and gas lease Sacramento 051077, issued effective October 1, 1955, and extended for an additional 5-year term from October 1, 1960.

Mr. Miller contends, in substance, that his offer is the first qualified offer for the lands since, allegedly, the existing lease was issued in violation of sections 17 and 27 of the Mineral Leasing Act, as amended (30 U.S.C., secs. 226 and 184). He asserts his belief that the lessee of the previous lease of the lands relinquished the lease pursuant to a combination or planned device with the subsequent applicant (under Sacramento 051077), resulting in a monopolistic holding of the leased interest in the lands.

No evidence has been presented by Mr. Miller in support of his allegations. Moreover, with respect to similar contentions by Miller in similar cases the Department held consistently that a lessee who relinquished a lease, or a person who knew that a lease was to be relinquished, was not thereby disqualified for the award of a new lease for the same land. Duncan Miller, A-29489 (July 26, 1963) and cases cited therein.

The lands sought for leasing being included in an existing oil and gas lease, Mr. Miller's offer was properly rejected. Carolyn C. Stockmeyer, A-28756 (January 30, 1962); also see H. G. Jeffrey, A-29779 (November 18, 1963).

Therefore, the decision is affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240 and the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

If an appeal is filed, the adverse party to be served is:

Socony Mobil Oil Company, Inc.
612 South Flower Street
Los Angeles, California 90054

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosure

DISTRIBUTION
Mr. Duncan Miller (Certified Mail)
Mr. John D. Heckert, Attorney for Socony Mobil Oil Company, Inc.
Socony Mobil Oil Company, Inc.
Div. of L&M S&T (4)
Div. of L&M PM (2)
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE

DOCKET FILES

1965 FEB 25 PM 2 51

Oil and Gas Leases: Generally 3120

An oil and gas lease offer is properly rejected when the land applied for is in an existing lease.

Lewis F. Goddard, Riverside 04999 (February 15, 1965)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

In Reply Refer to:
704
Riverside 04999

February 15, 1965

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Lewis F. Goddard : Oil and Gas

Decision Affirmed

Mr. Lewis F. Goddard has appealed from a decision dated June 5, 1964, whereby the Riverside land office rejected his above-identified oil and gas lease offer filed April 16, 1964. The decision stated that the lands applied for (lot 2 sec. 1, T. 4 N., R. 20 W., S.B.M.)* are included in outstanding lease Los Angeles 043561(a), for which original permit was issued February 5, 1929, and a 10-year renewal lease was granted effective November 1, 1961.

The appellant contends that the numbered lease was issued as of April 1, 1959, for a five-year term, and that it expired on March 31, 1964. He asserts that no effort has been made by the present lessee to produce oil from the leasehold.

In a memorandum by the Manager of the Riverside office on January 20, 1965, it was reported that lease Los Angeles 043561(a) is in fact an exchange lease which was issued effective April 1, 1959, for a period of five years and so long thereafter as oil and gas is produced in paying quantities. The Manager reported that the lease has not expired but remains in the status of a producing lease on land office records.

It is proper to reject an offer to lease lands which are included in an existing lease. Duncan Miller, 70 I.D. 1 (1963). Accordingly, the decision rejecting lease offer Riverside 04999 is affirmed.

Mr. Lewis F. Goddard is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C., 20240, and the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

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* The decision incorrectly referred to the lands as lot 2 sec. 11, above township and range.

If an appeal is filed the adverse party to be served is:

Mr. P. L. Bonebrake
180 Santa Anita Court
Sierra Madre, California 91024

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION:

Mr. Lewis F. Goddard (Certified Mail)
Mr. P. L. Bonebrake
Div. of L&M S&T (4)
Div. of L&M PM (2)
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
EG

appeal to Sec.
Dismissed A-30477
7-30-65

DOCKET FILES

Oil and Gas Leases: First Qualified Applicant - Simultaneous Filings

In a public drawing held to determine priority among simultaneously filed lease offers, where it appears that offers have been submitted by individuals who are not acting solely in their own interests but in accordance with undisclosed agreements or understandings with other offerors participating in the same drawing, the offers created an inherently unfair situation which disqualified them from participating in the drawing.

Such offers do not earn a priority of filing; hence they are ineffective to challenge a lease issued pursuant to the first drawn offer, even though this lease was issued in violation of a departmental regulation.

Mrs. Verna I. Clancy et al., Sacramento 072582 etc. (April 13, 1965)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 APR 23 AM 10 00

In reply refer to:
704
Sacramento 072582
072766
072809

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

April 13, 1965

DECISION

Mrs. Verna I. Clancy :
Lessee :

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hugh E. Pipkin :
Lease Offeror

Oil and Gas

:
Raymond J. Stipek
Lease Offeror :

Lease Offers Sacramento 072766 and 072809 Rejected; Lease Sacramento 072582 Remains Intact.

By decision Hugh E. Pipkin et al., 71 I.D. 89 (March 4, 1964), the Department held that oil and gas lease Sacramento 072582 issued as of November 1, 1962, to Mrs. Verna I. Clancy, was improperly issued for failure of the lease offer to meet either of the two requirements imposed by 43 CFR 192.42(d),[1] and that it must be canceled if there is another applicant or applicants qualified to hold a lease. In this connection the decision noted that Mrs. Clancy had, in the appeal, alleged that each of the appellants, Messrs. Hugh E. Pipkin and Raymond J. Stipek, was part of a separate group that may have sought to obtain an unfair advantage in the drawing by which priorities were determined among the simultaneously-filed lease offers for the lands. The decision held that this matter was to be investigated before Mrs. Clancy's lease was canceled for if the appellants were disqualified as offerors for the lands, her lease may remain in effect, in the absence of other offerors who have maintained their rights.

In substance Mrs. Clancy had alleged that while separate lease offers were submitted in the drawing by Messrs. Raymond J. Stipek and R. A. Keans, each purportedly being the sole party in interest in his offer and lease, if issued, the offers were in fact submitted by each of them in behalf of the firm of Keans, Springmann and Stipek, Inc., of which both Messrs. Keans and Stipek are members. The firm was indicated as dealing in oil and gas leasing for themselves and other companies, as well as independent operators. She asserted further that relatives of these offerors submitted lease offers in the drawing, also acting as agents of the corporation. With respect to the lease offer of Mr. Pipkin, Mrs. Clancy asserted, essentially, that Mr. Hugh E. Pipkin was an employee of the firm of Ferguson & Bosworth at the time he and his wife, Mrs. Georgia M. Pipkin, each filed offers in the same drawing, purportedly as their own, but that the offers were submitted by them as agents for the firm; that a lease offer was filed by Ferguson & Bosworth in the drawing; that relatives of members of the firm also submitted lease offers in the drawing as agents for the firm; and, further, that Mr. W. E. James, attorney for Ferguson & Bosworth, also filed a lease offer in the drawing in behalf of the firm.

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[1] The requirements of the regulation (now contained in 43 CFR 3123.1(d)) provided that the lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. The lands in the Clancy offer were found to be not containable within an area of six miles square and they lay within seven surveyed sections.

The Bureau has conducted an inquiry into the allegations of Mrs. Clancy in order to ascertain whether the competing offerors, Messrs. Stipek and Pipkin, were in fact disqualified by reason of their participation in more than one offer submitted in the drawing and whether their separate lease offers are to be considered as earning no priority of filing time and subject to rejection for this reason and for their failure to disclose other parties in interest in these offers and leases, if issued, as required by the regulation then in effect (43 CFR 192.42(e)(3)(iii)).

The cited regulation provided, in pertinent part, that each offer when first filed, shall be accompanied by: 2/

> A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. Such separate statement and written

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2/ These requirements for disclosure of parties in interest are now contained in 43 CFR 3123.2(c)(3). See also definitions of sole party in interest and statement of interest, as contained in 43 CFR 3100.0-5 (Circ. 2140, 29 F.R. 6245, May 12, 1964), wherein it is also stated that the requirement of disclosure in an offer to lease of an offeror's or other parties' interest in a lease, if issued, is predicated on the departmental policy that all offerors and other parties having an interest in simultaneously filed offers to lease shall have an equal opportunity for success in the drawings to determine priorities. Additionally, the regulation states, such disclosures provide the means for maintaining adequate records of acreage holdings of all such parties where such interests constitute chargeable acreage holdings.

agreement, if any, must be filed not later than 15 days after the filing of the lease offer. All interested parties must furnish evidence of their qualifications to hold such lease interest.

It was revealed in the Bureau inquiry that Messrs. Keans and Stipek are presently the only stockholders in the corporation, each owning 50 percent, and that no lease offers were submitted in the drawing in the name of their corporation. The record shows Mr. Stipek stated that the corporation had submitted lease offers in previous drawings but since early in the summer of 1962 it was the practice of Messrs. Keans and Stipek to submit separate lease offers as individuals and not in the name of the corporation. Mr. Stipek further stated that an oral agreement existed between him and Mr. Keans concerning the submission of lease offers, to the effect that if either was awarded a lease in the drawing, the other could assume an undivided 50 percent interest by paying half the expenses involved in its acquisition by the other. Mr. Stipek stated that this agreement existed at the time his offer was filed in the August 1962 simultaneous filing period. Mr. Stipek expressed the view that since neither party was under any obligation to accept any interest in the lease (if issued), under the oral agreement referred to, until either one did so there was no party in interest in the offer and lease, if issued, other than the named offeror.

Mr. Stipek acknowledged that several of his relatives [3] submitted offers in the August 1962 filing but he stated there was no agreement with any of them to share in the lease profits; he stated each had agreed only to allow the firm to handle the sale of the lease, if it were issued to him.

The inquiry disclosed that Mr. Hugh E. Pipkin is a drilling foreman employed by Ferguson & Bosworth and that his lease offer was one of eleven offers filed in the drawing by employees, associates or relatives of employees, associates and members of the firm, namely:

Barbara K. Bosworth	Lease Offer	Sacramento		072568
Edwin C. Bosworth	"	"	"	072569
Esther Bosworth	"	"	"	072570
Josephine S. Bosworth	"	"	"	072571

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[3] The record shows lease offers were filed by each of George F. Stipek, Gladys R. Stipek and Marion F. Stipek. The following individuals with the Keans surname are also shown to have filed lease offers in the same drawing: Marjorie A. Keans, Ethel L. Keans and Harold E. Keans.

Mrs. Carrie L. Ferguson	Lease	Offer	Sacramento	072628
Wilson C. Ferguson	"	"	"	072634
Gail A. James	"	"	"	072688
Josephine James	"	"	"	072689
W. E. James	"	"	"	072690
Mrs. Georgia M. Pipkin	"	"	"	072765
Hugh E. Pipkin	"	"	"	072766

An offer was also filed by Ferguson & Bosworth, Sacramento 072626.

The records indicate that all of these lease offers were prepared by an employee of Ferguson & Bosworth. With the exception of the offers of Barbara K. Bosworth and Esther Bosworth which were executed on August 21, 1962, the offers were all executed on August 22, 1962. Except for the offers of Edwin C. Bosworth and Josephine S. Bosworth, which were filed on August 27, 1962, at 10:00 a.m., all of the offers were filed at 10:00 a.m. on August 24, 1962. While it may well be that the individual employees, associates or relatives of employees, associates or members of the firm did not deliberately seek to gain an unfair advantage for Ferguson & Bosworth in the drawing, the circumstances of the filings would appear to warrant an inference that there was a common business interest or understanding with Ferguson & Bosworth although it was not disclosed.

Mr. Pipkin has acknowledged that he has in fact contracted to assign any interest he may secure in a lease issued pursuant to his offer Sacramento 072766 to Ferguson & Bosworth, and an escrow providing for the payment of $15,000 and a 2½ percent overriding royalty to Mr. Pipkin was established to compensate him for his interest. It was indicated that Mr. Pipkin assigned his interest without making inquiries of other interested companies, despite his knowledge of widespread interest of competitors of the firm in the property because of its apparent development potential. Mr. Pipkin expressed a moral obligation to his firm to give the firm first opportunity to acquire his interest. Although his moral obligation to Ferguson & Bosworth may be obvious, it is reasonable to assume from the circumstances concerned that the escrow agreement, based on a contemplated assignment of his interest in a lease which would be issued pursuant to his offer Sacramento 072766, was in turn based on an oral or implied understanding which existed between Mr. Pipkin and his employer, Ferguson & Bosworth, when the lease offer was filed.

Careful and due consideration has been given to the information outlined above relating to the separate offers submitted in the drawing by Messrs. Stipek and Pipkin and the circumstances of the filing in the same drawing of other offers for the same lands by persons representing common business interests with these competing offerors. It appears that Messrs. Stipek and Pipkin were not acting solely in their own interests in the submission of their offers. In view of the oral agreement existing between Messrs. Stipek and Keans at the time they each filed lease offers in the drawing, it would appear that the statement made by each with respect to his offer that he is the sole party in interest in the offer and lease, if issued, is not accurate. Similarly, as to the Pipkin offer, the common characteristics of the preparation and submission of the several offers by persons employed and associated with the firm of Ferguson & Bosworth, which firm also filed a lease offer in the same drawing, persuade the conclusion that there existed between Mr. Pipkin and the firm at the time of the submission of Mr. Pipkin's offer some agreement or understanding whereby the firm would succeed to the lease or an interest in it if Mr. Pipkin's offer should result in a lease. Inasmuch as a party in interest can submit only one offer for participation in a drawing, the filing of these offers created an inherently unfair situation which disqualified them from participating in the drawing. For these reasons also the offers did not earn priority. The offers Sacramento 072766 and 072809 are therefore hereby rejected. McKay v. Wahlenmaier, 226 F.2d 35 (1955).

Lease Sacramento 072582 will remain intact, no objection appearing of record.

Request has been made by Mr. Monroe B. Kulberg of the law firm of Krystal & Paradise, representing Mr. Stipek, for all information of record relating to the interview had by the Bureau representative, Mr. Lawrence Hyland, with Mr. Stipek on July 4, 1964. The same information was requested with respect to an interview by the same Bureau representative with Mr. David Springmann. Inasmuch as this decision contains the pertinent information which Mr. Stipek supplied in the interview with respect to his lease offer and upon which the determination herein concerning that offer are based, the request is denied. No reason having been presented for the request to inspect the record relating to the interview with Mr. Springmann, this request is also denied.

The record shows that a proposed partial assignment of lease Sacramento 072582 from Mrs. Verna I. Clancy to Getty Oil Company was executed February 29, 1964, and filed for approval on April 8, 1964. A copy of this decision will, therefore, be furnished to the proposed assignee.

Messrs. Hugh E. Pipkin and Raymond J. Stipek are each allowed the right of appeal herefrom to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240 and the amount of the filing fee will be $5 for each lease offer on which favorable action is sought. In taking an appeal there must be strict compliance with the

Lease offerors Dr. Herbert R. Packard and Mrs. Natalie Z. Shell are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240 and the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

If an appeal is filed, the adverse party to be served is:

Mr. Raymond J. Hansen
701 Monterey Boulevard
Apt. 7
Hermosa Beach, California

James F. Doyle
Chief, Office of Appeals
and Hearings

Enclosures

DISTRIBUTION

Dr. Herbert R. Packard, c/o Messrs. Herbert Roy Packard, Jr., and Donald Fry Packard, Co-Conservators (Certified Mail)
Mrs. Natalie Z. Shell (Certified Mail)
Mr. Raymond J. Hansen
Geological Survey, Conservation Division (6)
Div. of L&M S&T (4)
Div. of L&M PM (2)
Gower Federal Service
Appeals List No. 1
AHO

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 MAY 5 AM 10 00

DOCKET FILES

Oil and Gas Leases: Generally (Cancellation) 3120

Where an oil and gas lease offeror submitted a drawing entry card offer during a simultaneous filing period and during the same period filed a statement with the land office withdrawing the offer in the event a specified number of similar offers were not received in the drawing, the drawing entry card offer was construed on appeal to be a conditional offer, not entitled to entry in the drawing, but subject to rejection and return to the offeror without priority. A lease issued pursuant to such an offer was held to have been issued erroneously, and it was cancelled.

Duncan Miller, Sacramento 078653 (July 7, 1965)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 JUL 21 PM 2 35

In reply refer to:
704
Sacramento 078653

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

July 7, 1965

DECISION

Duncan Miller : Oil and Gas

Decision Reversed

Mr. Duncan Miller has appealed from the decision of the Sacramento land office dated June 26, 1964, which notified him that a lease was issued that date, effective as of July 1, 1964, pursuant to his above-identified oil and gas lease offer, and which required him to pay a balance of $40 due for advance rental for the first lease year under penalty of cancellation of the lease (43 CFR 3123.4(a)).

The record shows that by letter dated June 20, 1964, received in the land office at 10:00 a.m. on June 22, 1964 (the same filing time stamped on the drawing entry card offer Sacramento 078653), Mr. Miller stated:

> "With reference to parcels No. 9 for 21 South, 10 East and No. 16 for 31 South, 14 East, before the drawing, I hereby withdraw these parcels unless there is a total of four or more including my filing for either one of these parcels.
>
> Time for valuation is so short that in this particular instance it is felt that the foregoing is desired."

The land office responded by letter of the same date that Mr. Miller's letter was considered to be a conditional withdrawal of his offer, and since the regulations contain no provision for conditional withdrawals, the drawing entry card offer Sacramento 078653 would be included in the drawing and processed in the usual manner of such drawings; further, if Mr. Miller did not desire a lease, he should withdraw the offer unconditionally. Four days later the land office issued the lease, no further communication having been received from Mr. Miller as of that date. At the same time, the land office notified Mr. Miller of the necessity for him to furnish a $1,000 bond, in accordance with 43 CFR 3126.1(b) for the protection of surface owners prior to entry on centain of the leased lands.

On July 13, 1964, Mr. Miller protested to the land office that he had not been afforded a right of appeal from its determination of June 22, 1964, relative to his offer, and he inquired whether his drawing entry card was the only offer submitted for the parcel concerned. The land office responded on July 15, 1964, that his offer was the only offer received for the parcel during the simultaneous filing period, June 15 - 22, 1964.

With his appeal Mr. Miller returned his copy of the issued lease as not accepted and as "withdrawn as a lease offer." He reiterated his protest that the land office acted so promptly after its letter of June 22, 1964 to him, that he was precluded from explaining his position in the matter prior to the issuance of the lease.

A careful study has been made of the record and of the appellant's contentions. It is concluded therefrom that it was error for the land office to include the subject offer in the drawing. Both the drawing entry card and the offeror's letter dated June 20, 1964, were received during the simultaneous filing period. The offer was thus made conditional and it should have been rejected and returned, and not entered in the drawing. Land office employees are not authorized to act as agents for an offeror, acting upon conditions attached to an offer, nor are they authorized to accept conditional offers by ignoring any stipulated conditions imposed thereon. See Duncan Miller, A-29698 (September 18, 1963). Therefore, lease Sacramento 078653 was issued erroneously, and it is hereby cancelled.

Accordingly, the decision appealed from is reversed. The record is being remanded, through the State Director for California, for further appropriate action.

Chief, Office of Appeals
and Hearings

DISTRIBUTION

Mr. Duncan Miller
Div. of L&M S&T (4)
Div. of L&M PM (2)
OPD
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

appeal to Sec
affirmed on other grounds
A-30541 - 6-9-66

In reply refer to:
704
Riverside 02809

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

August 11, 1965

Certified Mail
Return Receipt Requested

DECISION

Hugo H. Pyes : Oil and Gas
: Acquired Lands

Decision Affirmed

Mr. Hugo H. Pyes has appealed from the Riverside land office decision, dated July 26, 1963, which rejected in its entirety his above-identified noncompetitive acquired lands oil and gas lease offer filed pursuant to the act of August 7, 1947 (30 U.S.C., secs. 351-359 (1958)). The decision held that both parcels sought by the offeror are reported by the Geological Survey to be partially within the undefined known geologic structure of the Seal Beach Field effective prior to the date of filing the offer and, therefore, even if the lands are determined to be subject to lease under the Mineral Leasing Act for Acquired Lands at this time, they may be leased only through competitive means.

The offer embraces two parcels of land which were acquired in 1941 for use as a U. S. Naval Hospital. Jurisdiction over the oil and gas deposits in the land was transferred to the Secretary of the Interior by Public Land Order No. 591 of June 16, 1949. (14 F.R. 3414, June 23, 1949; 14 F.R. 3498, June 28, 1949). On June 1, 1950, the administrative control, custody, and jurisdiction of the Naval Hospital at Long Beach, California, was transferred to the Veterans Administration. The Geological Survey has reported that a portion of the lands sought for leasing are within the undefined known geologic structure of the Seal Beach Field effective prior to the date of the filing of the offer.

The appellant states in substance that his appeal is limited to those lands in the parcels described in his offer that are not within the undefined known geologic structure of the Seal Beach Field. He contends that he is entitled to an acquired lands oil and gas lease for these lands on the ground that upon the transfer of the control, custody, and jurisdiction of these lands to the Veterans Administration in 1950, they were no longer set apart for naval purposes.

The transfer to the Department of the Interior of jurisdiction over the oil and gas deposits in the Hospital Site in 1949 for a specific purpose by Public Land Order No. 591 did not and could not have the effect of making them subject to leasing under the mineral leasing laws. A. P. Scott, A-25846 (July 25, 1950). Until such time as the public land order is revoked or modified, the only authority the Department has over the oil and gas deposits in the entire Hospital Site is the implied authority which is vested in the executive branch of the Government to take protective measures in cases where land owned by the United States is found to contain oil and gas deposits which are being drained by adjoining owners. (40 Op. Atty. Gen. 41). The status of the deposits was not changed by the transfer of custody, control and jurisdiction of the Hospital Site but not the oil and gas deposits to the Veterans Administration in 1950. So long as the oil and gas deposits in the entire site remain subject to the provisions of the public land order, they are not available for leasing under the mineral leasing laws.

Accordingly, the decision appealed from is affirmed.

Mr. Pyes is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240 and the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosure

DISTRIBUTION
Mr. Hugo H. Pyes (Certified Mail)
Geological Survey, Conservation Division (3)
Div. of L&M S&T (4)
Div. of L&M PM (2)
OPD (1)
Gower Federal Service
Appeals List No. 1
WHW

Mineral Leasing Act for Acquired Lands: Lands Subject to 3211

Where acquired lands are in a U. S. Naval Hospital Site, not available for disposition under the Mineral Leasing Act for Acquired Lands, at the time a public land order transfers jurisdiction over the oil and gas deposits in the entire Hospital Site to the Department of the Interior for a specific purpose, so long as the oil and gas deposits in the entire site remain subject to the provisions of the public land order they are not available for leasing under the mineral leasing laws, notwithstanding the subsequent transfer of the Hospital Site, but not the oil and gas deposits, to the Veterans Administration.

Hugo H. Pyes, Riverside 02809 (August 11, 1965)

DEPT. OF INTERIOR
BUREAU OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 AUG 19 AM 10 00

appeal to Sec-
affirmed A-30546
8-10-66

DOCKET FILES

Oil and Gas Leases: Termination 3129.2(a)

> An oil and gas lease terminates automatically under Section 31 of the Mineral Leasing Act, as amended by the Act of July 29, 1954, when the rental is not paid in full on or before the due date.

Duncan Miller, Los Angeles 0165711 (August 24, 1965)

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 SEP 2 PM 2 36

In reply refer to:
704
Los Angeles 0165711

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 SEP 2 PM 2 33

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

August 24, 1965

Certified Mail
Return Receipt Requested

DECISION

Duncan Miller : Oil and Gas

Decision Affirmed

Mr. Duncan Miller has appealed from the decision dated July 16, 1964, of the Riverside district and land office, holding that the above-identified lease terminated by operation of law for failure of the lessee to pay the full amount of the required advance rental on the anniversary date, July 1, 1964. The decision noted that a partial relinquishment of the lease, involving 720 acres, was filed on June 30, 1964, and was effective as of that date, leaving the lease intact as to the remaining 282.57 acres, for which advance rental of $70.75 was required. The lessee had remitted on July 1, 1964, advance rental of $70.

The appellant contends that his rental payment was computed on the basis that 40 acres were included in each subdivision retained in his leasehold. He urges that since the shortage in payment is only 75 cents, and since the land office had on hand moneys for copying fees which he had submitted, sufficient to settle the shortage, the required amount should be applied to the lease account from these funds to complete the rental payment.

The Department has interpreted section 31 of the Mineral Leasing Act of February 25, 1920, as amended by the Act of July 29, 1954 (30 U.S.C. § 188), to mean that a failure to pay the entire rental when due results in the automatic termination of the lease. Champlin Oil and Refining Co., 66 I.D. 26 (1959); Mary C. Hagood, et al., A-27716 (November 6, 1958). The land office is only authorized to apply rental payments to the leases for which such payments are identified. W. H. Burnett et al., A-28037 (August 20, 1959); Al Warden et al., A-28262 (May 31, 1960). Further, the amount of rental deficiency is not a debt and it may not be offset against moneys paid by Mr. Miller on other accounts in the land office. It is to be noted in this connection also that Mr. Miller did not request that such funds be applied to this account until after the time for payment of advance rental had transpired.

Therefore, the lease was properly held terminated, and the decision appealed from is affirmed.

Mr. Duncan Miller is allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the filing fee will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION

Mr. Duncan Miller (Certified Mail)
Div. of L&M S&T (4)
Div. of L&M PM (2)
OPD
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
AHO

(3)

DOCKET FILES

Oil and Gas Leases: Applications - Noncompetitive 3123.2

An oil and gas lease offer is properly rejected without priority when it is not accompanied by the required showing of qualifications under the Mineral Leasing Act, as amended, by two of the parties in interest and where such showing is not filed within the fifteen-day period allowed by regulation 43 CFR 3123.2(c)(3).

Florence E. Westlund et al., Riverside 06226 (November 17, 1965)

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 DEC 2 AM 10 00

In Reply Refer to:
704
Riverside 06226

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

November 17, 1965

Certified Mail
Return Receipt Requested

DECISION

Florence E. Westlund _et al._ : Oil and Gas

Decision Affirmed

Mrs. Florence E. Westlund _et al._ have appealed from the April 12, 1965 decision of the Riverside district and land office, rejecting the above-identified oil and gas lease offer filed on January 21, 1965, by simultaneous oil and gas drawing entry card. The offer was signed on its obverse side by Mrs. Westlund with the notation "1/3 Interest" following her signature, and it was signed on its reverse side by Mrs. Beulah A. Westlund and Mr. George W. Burrows with notations as to "1/3 Int." following each of these signatures. No separate statement was furnished with the offer as to any agreement among the parties, nor of the qualifications of the two additional parties named to take and hold the interests sought, and the decision held that the lease offer was therefore defective for noncompliance with 43 CFR 3123.2(c)(3).

On appeal the parties have furnished the required statement of the agreement between them and evidence of the qualification of the additional parties named to take and hold the interests sought. These showings are dated April 23, 1965. It is acknowledged that the showings were not filed timely, as required by the cited regulation, and it is averred that the delay was the result of the unfamiliarity of the parties with the requirements of the regulations. It is urged that the lease offer be reconsidered and that the requested lease be issued.

The cited regulation is specific in its requirement that the separate statement of the parties as to the agreement between them and the required showing of qualifications of the additional parties (citizenship and holdings under the Mineral Leasing Act, as amended), to take and hold the interests sought must be filed with the offer or within 15 days after the filing of the offer. Because the complete showing required in this instance was not filed with the offer nor within the 15 days allowed by the pertinent regulation, the land office properly rejected the offer. Cf. _Gerald Breslauer_, A-29129 (January 10, 1963). The requirements of the regulation are mandatory. There is no authority for excusing the late submission of the required showing on the basis that the offerors were unfamiliar with the requirements of the regulations in this respect. _Genia Ben Ezra et al._, 67 I.D. 400 (1960); _K. L. Bickel_, New Mexico 0557106 (August 30, 1965)

There is no authority for consideration of the offer as entitled to a priority from the date the necessary statements were furnished. It is considered that the completion of an offer drawn in a simultaneous drawing, after the period allowed for such completion by departmental regulations, cannot serve to validate the defective offer. The regulation 43 CFR 3123.9(c)(3) provides that if the successful drawee is unqualified to receive the lease, the lands in the numbered leasing unit shall be included in a simultaneous filing drawing procedure to be held during the next or a following month thereafter.

The decision is affirmed.

Mrs. Florence E. Westlund et al. are allowed the right of appeal to the Secretary of the Interior in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D. C. 20240, and the filing fee therefor will be $5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving by presenting positive and substantial evidence wherein the decision appealed from is in error.

Frances A. Patton

Chief, Branch of Mineral Appeals
Office of Appeals and Hearings

Enclosures

DISTRIBUTION
Mrs. Florence E. Westlund (Certified Mail)
Mr. George W. Burrows (Certified Mail)
Mrs. Beulah A. Westlund (Certified Mail)
Div. of L&M S&T (4)
Div. of L&M PM (2)
OPD
Conservation Division, Geological Survey (3)
Gower Federal Service
Appeals List No. 1
AHO

DOCKET FILES

Oil and Gas Leases: Extension 3127

In a case where the lessees submitted payment of the sixth year's advance rental in accordance with an erroneous billing by the land office and under an apparent belief that such payment would be a sufficient means for requesting and obtaining an extension of the lease, and where the land office receipted for such payment approximately six weeks prior to the expiration date of the lease, the tender of the payment may be construed as an informal request for extension of the lease and the lessees may be allowed the 30 days' time specified in the applicable regulation for completion of all requirements for the requested lease extension.

Edith W. Meek et al., Los Angeles 034703(b) (November 22, 1965)

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
SACRAMENTO LAND OFFICE
1965 DEC 2 AM 10 00

In reply refer to:
704
Los Angeles 034703(b)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington, D. C. 20240

November 22, 1965

DECISION

Edith W. Meek *et al.*, :
DBA Havenstrite Oil Company, : Oil and Gas
a limited partnership :

Decision Reversed; Case Remanded

Edith W. Meek *et al.* have appealed from a decision of the Riverside district and land office, dated August 17, 1964, declaring that the above-identified exchange lease terminated by operation of law at the end of its five-year term on July 31, 1964, the lessees having failed to file a timely application for lease extension under the Mineral Leasing Act, as amended (30 U.S.C. § 226-1; 43 CFR 3127.1). The record shows the lease was issued on August 1, 1959, under section 17(a) of the Mineral Leasing Act as added on August 8, 1946 (30 U.S.C. § 226d).

The appellants allege that they made a $40 payment pursuant to a billing from the land office for the sixth year's advance rental which stated that the rental was due for the period from August 1, 1964 through July 31, 1965, hence they were misled into believing it unnecessary to prepare and file a formal request for extension of the lease. The appellants further state that a receipt for the rental was returned to them on June 22, 1964, prior to the expiration date of the exchange lease, without notice of any kind as to any further requirements relative to the lease extension. They contend in the circumstances that their compliance with the billing notice constituted an informal application for lease extension and that they should be allowed an opportunity to complete all requirements for obtaining the lease extension.

The record shows the erroneous billing referred to by the appellants and that the payment of $40 advance rental was received in the land office on June 18, 1964, six weeks before the expiration date of the lease. The land office decision from which the appeal has been taken indicates that the payment has been retained in the land office pending final determination on the lease extension.

The issue, then, is whether the actions of the appellants in this instance may be properly construed as constituting an informal request for lease extension, within the purview of section 3127.1(c) of the regulations, entitling the appellants to a notice allowing them 30 days' time for submission of the required forms and additional payment as provided in the regulation.

It is believed the actions of the appellants may be so construed. The tender of payment for the sixth year's rental, in the circumstances here concerned, within the ninety-day period prior to the expiration date of the lease, clearly indicated the appellants' wish to continue the lease. The regulation does not attempt to prescribe the form which an informal request for a lease extension must take if it is not on the prescribed form. It requires only that such a request be filed by a proper party, within the specified period prior to the expiration date of the lease, and that payment of the necessary filing fee be made within that time. The payment tendered by the lessees prior to the expiration date of the lease was sufficient to cover the requisite $10 filing fee.

It is pertinent to note here that, unlike in the case of an original lease offer for a noncompetitive lease, the allowance of which is discretionary and as to which the preference right to a lease is against others, not the Government, there is an entitlement to an extension of the existing lease as a matter of law. The right exists between the lessee and the Government only as present contracting parties, not others. Further, the lease has been in good standing since first issued November 15, 1930, nearly 35 years.

In view of the foregoing, it is concluded that a timely informal request for an extension of the lease, with a sufficient payment for the filing fee, was received, and consequently that the appellants are entitled under the applicable regulation to a notice allowing them 30 days within which to complete all requirements for the requested lease extension.

The decision appealed from is reversed and the case is remanded to the land office, through the State Director, for further appropriate action consistent herewith.

Frances A. Patton

Acting Chief, Office of Appeals
and Hearings

DISTRIBUTION

Edith W. Meek et al., DBA Havenstrite Oil Company
Div. of L&M S&T (4)
Div. of L&M PM (2)
OPD
Geological Survey, Conservation Division (3)
Gower Federal Service
Appeals List No. 1
JHJ